सीमाशुल्क(अपील) आयुक्तकाकार्यालय,

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

चौथी मंज़िल 4th Floor, हडकोभवनHUDCO Bhavan, ईश्वर भुवन रोड़ IshwarBhuvan Road,

नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009

दूरभाषक्रमांक Tel. No. 079-26589281

DIN – 20260371MN000000EE38

क	फ़ाइलसंख्या FILE NO.	S/49-12,19,20,21,23,24,25,27,28,34,38,39,40,42,45,64,67,69,70,71,73,75,77,79,80/CA-2/CUS/MUN/MAR/2025-26
ख	अपीलआदेशसंख्या ORDER-IN-APPEAL NO. (सीमाशुल्कअधिनियम, 1962 कीधारा 128ककेअंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	MUN-CUSTM-000-APP-947 to 971-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	31.03.2026
ङ	उदभूतअपीलआदेशकीसं. वदिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	As detailed in Table I
च	अपीलआदेशजारीकरनेकीदिनांक ORDER-IN-APPEAL ISSUED ON:	31.03.2026
छ	अपीलकर्ताकानामवपता NAME AND ADDRESS OF THE APPELLANT:	The Deputy Commissioner of Customs (Review), Custom House, Mundra

1.	यहप्रतिउसव्यक्तिकेनिजीउपयोगकेलिएमुफ्तमेंदीजातीहैजिनकेनामयहजारीकियागयाहै.
	This copy is granted free of cost for the private use of the person to whom it is issued.
2.	सीमाशुल्कअधिनियम 1962 कीधारा 129 डीडी (1) (यथासंशोधित) केअधीननिम्नलिखितश्रेणियोंकेमामलोंकेसम्बन्धमेंकोईव्यक्तिइसआदेशसेअपनेकोआहतमहसूसकरताहोतोइसआदेशकीप्राप्तिकीतारीखसे 3 महीनेकेअंदरअपरसचिव/संयुक्तसचिव (आवेदनसंशोधन), वित्तमंत्रालय, (राजस्वविभाग) संसदमार्ग,नईदिल्लीकोपुनरीक्षणआवेदनप्रस्तुतकरसकतेहै.

	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.
	निम्नलिखितसम्बन्धितआदेश/Order relating to :
(क)	बैगेज़केरूपमेंआयातितकोईमाल.
(a)	any goods imported on baggage.
(ख)	भारतमेंआयातकरनेहेतुकिसीवाहनमेंलादागयालेकिनभारतमेंउनकेगन्तव्यस्थानपरउतारेनगएमालयाउसगन्तव्य स्थानपरउतारेजानेकेलिएअपेक्षितमालउतारेनजानेपरयाउसगन्तव्यस्थानपरउतारेगएमालकीमात्रामेंअपेक्षितमालसे कमीहो.
(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)	सीमाशुल्कअधिनियम, 1962 केअध्यायX तथाउसकेअधीनबनाएगएनियमोंकेतहतशुल्कवापसीकीअदायगी.
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
3.	पुनरीक्षणआवेदनपत्रसंगतनियमावलीमेंविनिर्दिष्टप्रारूपमेंप्रस्तुतकरनाहोगाजिसकेअन्तर्गतउसकीजांचकीजाएगी औरउसकेसाथनिम्नलिखितकागजातसंलग्नहोनेचाहिए :
	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)	कोर्टफीएक्ट,1870केमदसं.6 अनुसूची 1 केअधीननिर्धारितकिएगएअनुसारइसआदेशकी 4 प्रतियां,जिसकीएकप्रतिमेंपचासपैसेकीन्यायालयशुल्कटिकटलगाहोनाचाहिए.
(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)	सम्बद्धदस्तावेज़ोंकेअलावासाथमूलआदेशकी 4 प्रतियां,यदिहो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षणकेलिएआवेदनकी 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षणआवेदनदायरकरनेकेलिएसीमाशुल्कअधिनियम, 1962 (यथासंशोधित) मेंनिर्धारितफीसजोअन्यरसीद,फीस,दण्ड,जब्तीऔरविविधमदोंकेशीर्षकेअधीनआताहैमेंरु. 200/- (रूपएदोसौमात्र)यारु.1000/-(रूपएएकहज़ारमात्र),जैसाभीमामलाहो,सेसम्बन्धितभुगतानकेप्रमाणिकचलानटी.आर.6 कीदोप्रतियां. यदिशुल्क,मांगागयाब्याज,लगायागयादंडकीराशिऔररूपएएकलाखयाउससेकमहोतोऐसेफीसकेरूपमेंरु.200/- औरयदिएकलाखसेअधिकहोतोफीसकेरूपमेंरु.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.	मदसं. 2 केअधीनसूचितमामलोंकेअलावाअन्यमामलोंकेसम्बंधमेंयदिकोईव्यक्तिइसआदेशसेआहतमहसूसकरताहोतोवेसी माशुल्कअधिनियम 1962 कीधारा 129 ए (1) केअधीनफॉर्मसी.ए.-3 मेंसीमाशुल्क,केन्द्रीयउत्पादशुल्कऔरसेवाकरअपीलअधिकरणकेसमक्षनिम्नलिखितपतेपरअपीलकरसकतेहैं
	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, केंद्रीयउत्पादशुल्कवसेवाकरअपीलियअधिकरण,पश्चिमीक्षेत्रीयपीठ / **Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench**

	दूसरीमंज़िल,बहुमालीभवन,निकटगिरधरनगरपुल,असारवा,अहमदाबाद-380016	2nd Floor, BahumaliBhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	सीमाशुल्कअधिनियम, 1962 कीधारा 129 ए (6) केअधीन,सीमाशुल्कअधिनियम, 1962 कीधारा 129 ए(1)केअधीनअपीलकेसाथनिम्नलिखितशुल्कसंलग्नहोनेचाहिए-	
	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)	अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपाँचलाखरूपएयाउससेकमहोतोएकहज़ाररुपए.	
(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)	अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपाँचलाखरूपएसेअधिकहोलेकिनरुपयेपचासलाखसेअधिकनहोतो;पांचहज़ाररुपए	
(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)	अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपचासलाखरूपएसेअधिकहोतो;दसहज़ाररुपए.	
(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)	इसआदेशकेविरुद्धअधिकरणकेसामने,मांगेगएशुल्कके 10% अदाकरनेपर,जहांशुल्कयाशुल्कएवंदंडविवादमेंहैं,यादंडके 10% अदाकरनेपर,जहांकेवलदंडविवादमेंहै,अपीलरखाजाएगा।	
(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.	उक्तअधिनियमकीधारा 129 (ए) केअन्तर्गतअपीलप्राधिकरणकेसमक्षदायरप्रत्येकआवेदनपत्र- (क) रोकआदेशकेलिएयागलतियोंकोसुधारनेकेलिएयाकिसीअन्यप्रयोजनकेलिएकिएगएअपील : - अथवा (ख) अपीलयाआवेदनपत्रकाप्रत्यावर्तनकेलिएदायरआवेदनकेसाथरुपयेपाँचसौकाशुल्कभीसंलग्नहोनेचाहिए.	
	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

Twenty five appeals have been filed by the Deputy Commissioner of Customs (Review), Custom House, Mundra, (hereinafter referred to as 'the appellant department') in terms of Section 129D (4) of the Customs Act, 1962 on the basis of Authorization/Review Order No. as detailed in Table I below issued by the Commissioner of Customs, Mundra, challenging Order-in-Original No. as detailed in Table I below (hereinafter referred to as "the impugned orders") passed by the Additional Commissioner, Custom House, Mundra, (hereinafter referred to as "the adjudicating authority") in case of twenty five respondents as detailed in Table I below.

Table I

Sr No	Appeal No.	Review Order No. & Date	Name of Respondents	Order-in-Original No & Date
01	S/49-12/CA-2/CUS/MUN/MAR/2025-26	14/OIO/2025-26 Dated 18.02.2026	M/s Shiva Fabrics	MCH/ADC/ZDC/473/2025-26 Dated 31.12.2025
02	S/49-19/CA-2/CUS/MUN/MAR/2025-26	40/OIO/2025-26 Dated 18.02.2026	M/s Balaji Impex	MCH/ADC/ZDC/521/2025-26 Dated 06.01.2026
03	S/49-20/CA-2/CUS/MUN/MAR/2025-26	27/OIO/2025-26 Dated 18.02.2026	M/s Bharat Agro Molecules Ltd	MCH/ADC/ZDC/481/2025-26 Dated 01.01.2026
04	S/49-21/CA-2/CUS/MUN/MAR/2025-26	38/OIO/2025-26 Dated 18.02.2026	M/s Akhil Paper Sales	MCH/ADC/ZDC/517/2025-26 Dated 06.01.2026
05	S/49-23/CA-2/CUS/MUN/MAR/2025-26	37/OIO/2025-26 Dated 18.02.2026	M/s Superspeed Polymers	MCH/ADC/ZDC/515/2025-26 Dated 06.01.2026
06	S/49-24/CA-2/CUS/MUN/MAR/2025-26	36/OIO/2025-26 Dated 18.02.2026	M/s Kuber Impex India	MCH/ADC/ZDC/513/2025-26 Dated 06.01.2026
07	S/49-25/CA-2/CUS/MUN/MAR/2025-26	17/OIO/2025-26 Dated 18.02.2026	M/s Bhole Nath Hosiery Mills	MCH/ADC/ZDC/416/2025-26 Dated 04.12.2025
08	S/49-27/CA-2/CUS/MUN/MAR/2025-26	39/OIO/2025-26 Dated 18.02.2026	M/s Sweety Impex Trading Co.	MCH/ADC/ZDC/519/2025-26 Dated 06.01.2026
09	S/49-28/CA-2/CUS/MUN/MAR/2025-26	34/OIO/2025-26 Dated 18.02.2026	M/s Rens & Kens Distribution	MCH/ADC/ZDC/507/2025-26 Dated 05.01.2026

10	S/49-34/CA-2/CUS/MUN/MAR/2025-26	41/OIO/2025-26 Dated 18.02.2026	M/s Transworld Furtichem Pvt. ltd	MCH/ADC/ZDC/422/2025-26 Dated 08.12.2025
11	S/49-38/CA-2/CUS/MUN/MAR/2025-26	42/OIO/2025-26 Dated 18.02.2026	M/s Genetic Industries Pvt. Ltd	MCH/ADC/ZDC/424/2025-26 Dated 08.12.2025
12	S/49-39/CA-2/CUS/MUN/MAR/2025-26	18/OIO/2025-26 Dated 18.02.2026	M/s Goyal Chemical Industries	MCH/ADC/ZDC/420/2025-26 Dated 05.12.2025
13	S/49-40/CA-2/CUS/MUN/MAR/2025-26	07/OIO/2025-26 Dated 12.02.2026	M/s Maa Dayalu Fertilizers and Chemicals Pvt. Ltd	MCH/ADC/ZDC/425/2025-26 Dated 09.12.2025
14	S/49-42/CA-2/CUS/MUN/MAR/2025-26	06/OIO/2025-26 Dated 09.02.2026	M/s Horizon Adhesives	MCH/ADC/ZDC/423/2025-26 Dated 08.12.2025
15	S/49-45/CA-2/CUS/MUN/MAR/2025-26	45/OIO/2025-26 Dated 18.02.2026	M/s Nice Hybrid Seed Company	MCH/ADC/ZDC/430/2025-26 Dated 09.12.2025
16	S/49-64/CA-2/CUS/MUN/MAR/2025-26	57/OIO/2025-26 Dated 03.03.2026	M/s M A Trading Company	MCH/ADC/ZDC/494/2025-26 Dated 02.01.2026
17	S/49-67/CA-2/CUS/MUN/MAR/2025-26	59/OIO/2025-26 Dated 05.03.2026	M/s Royal Trading Company	MCH/ADC/ZDC/504/2025-26 Dated 05.01.2026
18	S/49-69/CA-2/CUS/MUN/MAR/2025-26	68/OIO/2025-26 Dated 05.03.2026	M/s Shriyansh Enterprises	MCH/ADC/ZDC/518/2025-26 Dated 06.01.2026
19	S/49-70/CA-2/CUS/MUN/MAR/2025-26	65/OIO/2025-26 Dated 10.03.2026	M/s TP Polymer Pvt. Ltd	MCH/ADC/ZDC/512/2025-26 Dated 06.01.2026
20	S/49-71/CA-2/CUS/MUN/MAR/2025-26	66/OIO/2025-26 Dated 05.03.2026	M/s Divya Impex	MCH/ADC/ZDC/514/2025-26 Dated 06.01.2026
21	S/49-73/CA-2/CUS/MUN/MAR/2025-26	67/OIO/2025-26 Dated 05.03.2026	M/s Vridhi Trading Company	MCH/ADC/ZDC/516/2025-26 Dated 06.01.2026
22	S/49-75/CA-2/CUS/MUN/MAR/2025-26	80/OIO/2025-26 Dated 09.03.2026	M/s Vigour Agritech Solutions Pvt. Ltd	MCH/ADC/ZDC/550/2025-26 Dated 15.01.2026

23	S/49-77/CA-2/CUS/MUN/MAR/2025-26	79/OIO/2025-26 Dated 10.03.2026	M/s ARYA International	MCH/ADC/ZDC/584/2025-26 Dated 27.01.2026
24	S/49-79/CA-2/CUS/MUN/MAR/2025-26	77/OIO/2025-26 Dated 10.03.2026	M/s Tirupati Balaji Enterprises	MCH/ADC/ZDC/572/2025-26 Dated 23.01.2026
25	S/49-80/CA-2/CUS/MUN/MAR/2025-26	72/OIO/2025-26 Dated 09.03.2026	M/s Trasnworld Furtichem Pvt. Ltd	MCH/ADC/ZDC/548/2025-26 Dated 15.01.2026

2. The common issue involved in all the present appeals is whether redemption fine under Section 125 of the Customs Act, 1962 can be imposed in cases where the goods are not physically available for confiscation. Accordingly, all these appeals are being disposed of by way of this common order. For the sake of convenience, the facts of the appeal listed at Sr. No. 01 in Table I above are taken as the lead matter. The brief facts in respect of the appeal mentioned at Sr. No. 01 of Table I above are that the imports of the respondent were subjected to examination, particularly the consignment covered under Bill of Entry No. 4201613 dated 16.01.2023 filed at Mundra Port. The importer had declared the goods as "1.3 CM Yarn in Hank" with a unit value of USD 1.5 per kg. On physical examination of the consignment in the presence of panch witnesses, the yarn was found to be hairy in nature, consisting of twisted strands and resembling Chenille Yarn. The Customs Broker produced a supplier's test report describing the goods as "Nylon Chenille Yarn." Representative samples were drawn and forwarded to the Textile Committee Laboratory, Kolkata for chemical testing. Pending investigation, the goods were seized under Section 110 of the Customs Act, 1962 on a reasonable belief that they were misdeclared and liable to confiscation

2.1 Statements were recorded under Section 108 from the Customs Broker and from Shri Sagar, proprietor of respondent. In his statement dated 02.02.2023, Shri Sagar admitted that the yarn imported by him was in fact Chenille Yarn, correctly classifiable under CTH 56060090. He further admitted that he had intentionally classified the goods under CTH 54026100 or 55091100 to pay lower duty, as several other importers were also following the same practice. He also admitted that the declared value of USD 1.5/kg was understated and that contemporaneous imports showed values around USD 3.21/kg, and that undervaluation had been adopted to remain competitive in business. He agreed to pay the differential duty arising from correct classification and valuation.

2.2 The chemical test reports issued by the Textile Committee confirmed that the samples were Chenille Yarn composed of 100% Polyamide. On the basis of the test results and admissions, it was concluded that the goods were wrongly classified and undervalued. The department therefore rejected the declared value under Rule 12 of the Customs Valuation Rules, 2007, and re-determined the assessable value under Rule 5 on the basis of contemporaneous imports of similar goods.

2.3 Accordingly, a Show Cause Notice dated 15.01.2025 was thereafter issued proposing rejection of declared classification and value, reclassification of the goods under CTH 56060090, re-determination of value under the Customs Valuation Rules, recovery of the differential duty of 39,38,722 under Section 28(4) of the Customs Act, 1962 along with interest under Section 28AA, confiscation of the goods under Section 111(m), and imposition of penalties under Sections 112(a), 112(b), 114A and 114AA of the Act.

2.4 After examining the records, submissions, test reports and statements, the adjudicating authority held that the description and classification declared by the importer were incorrect and misleading. The authority relied on the chemical test report and the voluntary admissions of the proprietor to conclude that the goods were in fact Chenille Yarn and had been deliberately mis-classified to avail a lower rate of duty. The declared value was also held to be unreliable and rightly rejected under the valuation rules. The adjudicating authority further held that the conduct of the respondent clearly established willful mis-statement and suppression of material facts, justifying invocation of the extended period under Section 28(4) of the Customs Act, 1962. Accordingly, the differential duty of 39,38,722 in respect of past consignments was confirmed as recoverable along with applicable interest under Section 28AA. On the question of confiscation, it was held that since the goods did not correspond with the declarations made in the Bills of Entry in respect of description, classification and value, they were liable to confiscation under Section 111(m) of the Customs Act, 1962. As the goods had already been provisionally released, physical confiscation was not ordered, but the liability to confiscation was clearly established in law.

2.5 Accordingly, the adjudicating authority ordered to confiscate the goods under Section 111 (m) of Customs Act, 1962. The adjudicating authority also noted that the goods had already been cleared and were not available physically for confiscation. Since the goods were not physically available for confiscation, the adjudicating authority did not impose any redemption fine in lieu of such confiscation under Section 125 (1) of the Customs Act, 1962.

3. The appellant department has contended that the adjudicating authority

has erred in holding that redemption fine under Section 125 of the Customs Act, 1962 is not imposable merely on the ground that the goods were not physically available for confiscation. Being aggrieved by the non-imposition of redemption fine in lieu of confiscation in the impugned order on account of such non-availability, the appellant department has preferred the present appeal, inter alia, contending as under:

- The adjudicating authority has erred in law by holding that redemption fine under Section 125 of the Customs Act, 1962 is not imposable merely because the goods are not physically available for confiscation. The authority failed to appreciate that the statutory trigger for imposition of redemption fine is the authorization of confiscation, and not the physical availability of goods. Once goods are held liable to confiscation under Section 111 or Section 113 of the Customs Act, the power to impose redemption fine automatically flows under Section 125 of the Act.
- The Hon'ble Madras High Court in M/s Visteon Automotive Systems India Pvt. Ltd., reported at 2018 (9) G.S.T.L. 142 (Mad.), has conclusively held that:

  Penalty under Section 112 and redemption fine under Section 125 operate in two distinct fields;

  Redemption fine is imposed in lieu of confiscation of goods;

  The opening words of Section 125, "Whenever confiscation of any goods is authorised by this Act", clearly establish that physical availability of goods is not necessary for imposition of redemption fine; and

  Redemption fine is intended to avoid the consequences flowing from confiscation under Section 111 of the Act.

  The adjudicating authority has failed to follow this binding judgment. rendering the impugned order legally unsustainable.
- The Hon'ble Gujarat High Court in M/s Synergy Fertichem Ltd., reported at 2020 (33) G.S.T.L. 513 (Guj.), has reaffirmed the above legal position and expressly followed the judgment of the Hon'ble Madras High Court in Visteon Automotive Systems. The Hon'ble Court held that the prerequisite for offering redemption fine is the finding that the goods are liable to confiscation. The Court further clarified that non-availability of goods does not bar the imposition of redemption fine. The impugned order is in direct conflict with this authoritative pronouncement.
- The Hon'ble CESTAT, West Zonal Bench, Ahmedabad, in Van Oord India Pvt. Ltd. (Customs Appeal No. 10679/2024-DB, Order dated 13.11.2025), has categorically held that:

Physical non-availability of goods does not affect confiscation or imposition of redemption fine;

The power to impose redemption fine springs from authorisation of confiscation under Section 111; and

Redemption fine is meant to avoid the consequences of confiscation and save the goods from such confiscation.

The adjudicating authority, being subordinate to the jurisdictional Tribunal, was bound to follow this settled position of law.

- The appellant department further contended that the opening words of Section 125 of the Customs Act, 1962 clearly provide that "Whenever confiscation of any goods is authorised by this Act", the adjudicating authority may impose redemption fine. The statute does not prescribe physical availability of goods as a condition precedent. It is a settled legal principle that once the power of confiscation is traceable to Section 111 or Section 113 of the Act, the physical availability of goods becomes irrelevant for the purpose of imposing redemption fine. This principle applies equally to cases of improper import as well as attempted improper export.
- The appellant department further contended that in view of the settled legal position laid down by the Hon'ble Madras High Court, Hon'ble Gujarat High Court, and consistently followed by the Hon'ble CESTAT, the adjudicating authority has committed a clear error of law by not imposing redemption fine under Section 125 of the Customs Act, 1962 solely on the ground that the goods were not physically available.
- In view of the above facts and submissions, the impunged Order-in-Original passed by the Assistant Commissioner, Custom House, Mundra, Import Assessment Group III is not legal and proper and therefore, in the interest of justice, prayed to:

i. Set aside the impugned Order-in-Original to the extent it failed to impose redemption fine under Section 125 of the Customs Act, 1962.

ii. Refer the matter back to Adjudicating Authority to consider it as a fresh with regard that redemption fine is imposable irrespective of the physical availability of the goods.

4. A letter dated 12.03.2026 in respect of appeal listed at sr no 01 to 15 was send to the respondent for submitting their comment. Personal hearing in the matter were scheduled on 17.03.2026. However, no comments were received and no one appeared for personal hearing. Hence,

the appeal is taken up for decision on the basis of documents available on record.

5. It is observed that the present appeal has been preferred by the appellant department solely on the ground that the adjudicating authority failed to impose redemption fine under Section 125 of the Customs Act, 1962, merely on the basis that the goods were not physically available for confiscation. It is further observed that the impugned order does not contain any specific finding or reasoning for non-imposition of redemption fine. Accordingly, in my considered view, the impugned order, to that extent, is a non-speaking order insofar as the issue of non-imposition of redemption fine is concerned.

5.1 It is further observed that the appellant department has relied upon the following case laws

(i) M/s Visteon Automotive Systems India Pvt. Ltd., reported at 2018 (9) G.S.T.L. 142 (Mad.)

(ii) M/s Synergy Fertichem Ltd., reported at 2020 (33) G.S.T.L. 513 (Guj.)

(iii) Final Order No. 11039-11040/2025 DATED 13.11.2025 of Hon'ble CESTAT, West Zonal Bench, Ahmedabad, in the case of Van Oord India Pvt. Ltd. Versus Commissioner of Customs, Ahmedabad in Customs Appeal No. 10679/2024-DB.

wherein it has been held that physical availability of goods is not necessary for imposition of redemption fine.

5.2 It is further observed that the appellant department has also prayed to refer the matter back to Adjudicating Authority to consider it as a fresh with regard that redemption fine is imposable irrespective of the physical availability of the goods.

5.3 In view of the foregoing, it is observed that the adjudicating authority, while passing the impugned order, has not recorded any specific finding or provided cogent reasons for non-imposition of redemption fine under Section 125 of the Customs Act, 1962. It is further noted that the appellant department has relied upon various judicial pronouncements wherein it has been consistently held that physical availability of the goods is not a sine qua non for imposition of redemption fine, and that such fine can be imposed even where the goods are no longer available. In these circumstances, I find that the matter requires reconsideration by the adjudicating authority with due application of the

legal position as well as the contentions advanced by the appellant department. Accordingly, I am inclined to remand the matter to the adjudicating authority for passing a fresh, reasoned and speaking order after duly examining the grounds of appeal and affording an opportunity of hearing in accordance with the principles of natural justice.

5.4 Thus, I am of the considered view that remitting of the matter to the lower authority has becomes *sine qua non* to meet the ends of justice. The adjudicating authority is required to examine all the contentions raised by the appellant department and record his finding and issue order accordingly. In this regard, I rely upon the *case of Prem Steels P. Ltd. - 2012-TIOL-1317-CESTAT-DEL* and the case of *Hawkins Cookers Ltd. - 2012 (284) E.L.T. 677 (Tri. – Del),* which have also relied upon the case of *Medico Labs - 2004(173) ELT 117 (Guj.),* wherein it has been held that Commissioner (Appeals) continue to have power of remand even after the amendment of Section 35(A) of the Central Excise Act, 1944 by Finance Act, 2001 w.e.f. 11.05.2001.

6. In light of the aforesaid facts and circumstances, the appeals filed by the appellant department is allowed by way of remand. The matter is remitted to the adjudicating authority to pass a reasoned and speaking order, in accordance with the principles of natural justice and applicable legal provisions. It is clarified that no opinion has been expressed on the merits of the case or on the submissions made by the appellant department, and the same shall be examined independently by the adjudicating authority.

सत्यापित/ATTESTED
अधीक्षक/SUPRERINTENDENT
सीमा शुल्क (अपील), अहमदाबाद.
CUSTOMS (APPEALS), AHMEDABAD

(AMIT GUPTA)
COMMISSIONER (APPEALS)
CUSTOMS, AHMEDABAD.

By Registered Post A.D.

F.Nos. S/49-12,19,20,21,23,24,25,27,28,34,38,39,40,42,45,64,67,69,70,71,73,75,77,79,80/CA-2/CUS/MUN/MAR/2025-26 Dated –31.03.2026

To,

1. The Deputy Commissioner of Customs (Review), Customs House, Mundra,
2. M/s. Shiva Fabrics, H No. 216, Ward No. 39, Street No. 4, Mohan Singh Nagar, Ludhiana-141008
3. M/s. Balaji Impex(IEC 0511030568), Kh No. 29/21, Ground Floor, Alipur, North-West Delhi-110036
4. M/s. Bharat Agro Molecules Limited, E-35, Udyog Puram, Delhi Road, Partapur, Meerut-250103
5. M/s. Akhil Paper Sales(IEC-505012529), Chawri Bazar, Delhi, North Delhi-110006

6. M/s. Superspeed Polymers, (IEC-ADXFS0498L), EW Gautam Nagar, Basti Bawa Khel, Jalandhar, Punjab-144001
7. M/s. Kuber Impex India(IEC-517521873), Khasra No. 29/21, Vill-Jindpur, Delhi-110036
8. M/s. Bhole Nath Hosiery Mills(IEC-BDCPM6096E), 1104, Purana Bazar, Ludhiana, Punjab-141001
9. M/s. Sweety Impex Trading Co(IEC-DVDPS6630H), Plot No. 35 & 36, 2nd Floor PKT 22, Sec 24, Rohini, Delhi, North West Delhi-110085
10. M/s. Rens & Kens Distribution, Plot No. 45/B, Akshar Industrial Park, Opp. Zydus Cadila, Sarkhej Bavla Highway, At-Vasna Chacharwadi, Ahmedabad-382213
11. M/s. Transworld Furtichem Pvt. Ltd.(IEC-0304057827), Balraj Complex, Malerkotla Road, Vill-Sarinh, Ludhiyana, Malerkotla, Ludhiyana, Punjab-141116
12. M/s. Genetic Industries Pvt. Ltd.(IEC-3415001199), 701 A Wing, Alkapuri Arcade, R. C. Dutt Road, Alkapuri, Vadodara-390007
13. M/s. Goyal Chemical Industries, Jogipura Gram, Kanchan Bazar, Dhanaura, Amroha, Uttar Pradesh-344231
14. M/s. Maa Dayalu Fertilizers and Chemicals Pvt. Ltd., Near BOI, A. B. Road, Pachore, Dist-Rajgarh-(MP)-465683
15. M/s. Horizon Adhesives, Survey No. 235, Ground Floor, Nr KGS Palace, Nijatam Nagar, Basti Nau, Jalandhar-144002
16. M/s. Nice Hybrid Seeds Company(IEC-AANFN9781G), G7, City Centre, Sansar Chand Road, Jaipur, Rajasthan-302001
17. M/s. M A Trading Company(IEC-1315003805), Ward No. 6, Khanpur Road, Sujangarh, Ratangarh, Churu, Rajasthan-331507
18. M/s. Royal Trading Company, (IEC-1316900967), Near Bangali Baba Ka Takiya, Sujangarh, Churu, Rajasthan-331507
19. M/s. Shriyansh Enterprise(IEC-0615008208), F-13,14 Industrial Area, Panki Site-2, Kanpur, Kanpur nagar, Uttarpradesh-208001
20. M/s. TP Polymer Pvt. Ltd., (IEC-AAHCT0597P), I-2117, DSIDC Industrial Area, Narela, Delhi-110040
21. M/s. Diya Impex(IEC-511012039), 111, Village-Bakhtawar, Pur, Delhi-110036
22. M/s. Vridhi Trading Company (IEC-AAPFV9255M), D-12, Cottage Road, Adrash Nagar, Delhi-110033
23. M/s. Vigour Agritech Solutions Pvt. Ltd.(IEC-3113010322), Ashirwas Apartment, Shop No. 1173, Sahashiv Peth Limayewadi, Tilak Road, Pune-411030
24. M/s. Arya International (IEC-508071208), 28-A. Pocket-6 Mig Flats, Mayur Vihar, Phase-III, Dehli-110096
25. M/s. Tirupati Balaji Enterprises(IEC-513026711), B-109 Gali No. 1, Radheshyam Park EXTN., Shahdara, Delhi-110051
26. M/s. Transworld Furtichem Pvt. Ltd.(IEC-0304057827), Balraj Complex, Malerkotla Road, Vill-Sarinh Ludhiyana Malerkotla Road, Ludhiyana, Punjab-141116

Copy to:

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