



सीमाशुल्क(अपील) आयुक्तकाकार्यालय,  
OFFICE OF THE COMMISSIONER OF CUSTOMS  
(APPEALS), अहमदाबाद AHMEDABAD,  
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नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009  
दूरभाषक्रमांक Tel. No. 079-26589281

DIN – 20260371MN0000313214

क	फ़ाइलसंख्या FILE NO.	S/49-36/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-926-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	30.03.2026
ङ	उदभूतअपीलआदेशकीसं. वदिनांक ARISING OUT OF ORDER-IN- ORIGINAL NO.	MCH/ADC/AKM/437/2025-26 dated 15.12.2025
च	अपीलआदेशजारीकरनेकीदिनांक ORDER- IN-APPEAL ISSUED ON:	30.03.2026
छ	अपीलकर्ताकानामवपता NAME AND ADDRESS OF THE APPELLANT:	Deputy Commissioner of Customs (Review), Custom House, Mundra.



1.	यह प्रतिउसव्यक्तिके निजी उपयोगके लिए मुफ्तमें दीजाती है जिनके नामयहजारी 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 डीडी (1) (यथासंशोधित) के अधीन निम्नलिखित श्रेणियोंके मामलोंके सम्बन्धमें कोई व्यक्ति इस आदेशसे अपनेको आहत महसूस करता हो तो इस आदेशकी प्राप्तिकी तारीखसे 3 महीनेके अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसदमार्ग, नई दिल्लीको पुनरीक्षण आवेदन प्रस्तुत कर सकता है. 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)	बैगेजके रूपमें आयातित कोई माल. (a) any goods imported on baggage.
(ख)	भारतमें आयात करने हेतु कि सीवाहनमें लादा गया लेकिन भारतमें उनके गन्तव्यस्थान पर उतारे गए माल या उस गन्तव्यस्थान पर उतारे जानेके लिए अपेक्षित माल उतारे जाने पर या उस गन्तव्यस्थान पर उतारे गए मालकी मात्रामें अपेक्षित मालसे 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 नियमोंके तहत शुल्क वापसीकी अदायगी. (c) Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
3.	पुनरीक्षण आवेदन पत्र संगत नियमावलीमें विनिर्दिष्ट प्रारूपमें प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांचकी जाएगी और उसके 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)	कोर्टफी एक्ट, 1870 के मद्रसं. 6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेशकी 4 प्रतियां, जिसकी एक प्रतिमें पचास पैसेकी 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 दस्तावेजोंके अलावा साथ मूल आदेशकी 4 प्रतियां, यदि हो (b) 4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षणके लिए आवेदनकी 4 प्रतियां (c) 4 copies of the Application for Revision.
(घ)	पुनरीक्षण आवेदन दायर करनेके लिए सीमाशुल्क अधिनियम, 1962 (यथासंशोधित) में निर्धारित फीस जो अन्यरसीद, फीस, दण्ड, जब्ती और विविध मदोंके शीर्षके अधीन आता है में रु. 200/- (रूपए दो सौ मात्र) या रु. 1000/- (रूपए एक हजार मात्र), जैसा भी मामला हो, से सम्बन्धित भुगतानके प्रमाणिक चलानटी. आर. 6 की दो प्रतियां. यदि शुल्क, मांगा गया ब्याज, लगाया गया दंडकी राशि और रूपए एक लाख या उससे कम हो तो एसे फीसके रूपमें रु. 200/- और यदि एक लाखसे अधिक हो तो फीसके रूपमें 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.	मद्रसं. 2 के अधीन सूचित मामलोंके अलावा अन्य मामलोंके सम्बन्धमें यदि कोई व्यक्ति इस आदेशसे 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 सेवाकर अपील अधिकरणके 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 :	
	<b>सीमाशुल्क, केंद्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधि- करण, पश्चिमी क्षेत्रीय पीठ</b>	<b>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</b>
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधर नगर पुल, असार वा, अहमदाबाद-380016	2 <sup>nd</sup> Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	<b>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-</b>	
	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)	<b>अपील से सम्बन्धित मामले में जहाँ किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हजार रूपए.</b>	
(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)	<b>अपील से सम्बन्धित मामले में जहाँ 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, पाँच हजार रूपए</b>	
(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)	<b>अपील से सम्बन्धित मामले में जहाँ किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो, दस हजार रूपए.</b>	
(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, जहाँ शुल्क या शुल्क एवं दंड विवाद में है, या दंड के 10% अदा करने पर, जहाँ 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.	<b>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.</b>	
	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**

The Deputy Commissioner of Customs (Review), Custom House, Mundra, (hereinafter referred to as 'the appellant department') have filed the present appeal in terms of Section 129D (4) of the Customs Act, 1962 on the basis of Authorization/Review Order No. 10/OIO/2025-26 dated 12.02.2026 issued by the Commissioner of Customs, Mundra, challenging Order-in-Original No. MCH/ADC/AKM/437/2025-26 dated 15.12.2025 (hereinafter referred to as "the impugned order") passed by the Additional Commissioner, Custom House, Mundra (hereinafter referred to as "the adjudicating authority") in case of M/s S. S. Overseas, 301-G-33, Gupta Tower Community Centre, Vikas Puri, New Delhi - 110018 (hereinafter referred to as 'the respondent').

2. Briefly stated, facts of the case are that the respondent, filed four Shipping Bills all dated 12.04.2023, pertaining to export of footwear to Ajman, UAE. The respondent had filed the Shipping Bills declaring the goods as Synthetic Footwear Gents and Men's Leather Sandals, claiming benefits under Drawback, RoDTEP and IGST refund. Based on an NCTC alert, the consignments were identified as high-risk on suspicion of mis-declaration of description, classification and over-valuation with intent to claim excess export incentives. The Shipping Bills were taken up for detailed examination by SIIB, Mundra. Physical examination of the export goods was conducted, representative samples were drawn, and the same were forwarded to CRCL, Kandla for testing. Simultaneously, valuation of the goods was obtained from a Government approved Chartered Engineer. The CRCL test reports revealed that the material composition of the exported footwear did not fully match the declared description and that several items were not classifiable under the tariff headings declared by the respondent. The Chartered Engineer's report further established that the declared FOB value was higher than the prevailing market value of similar goods. The total value of the goods declared by the respondent in respect of the 04 shipping bills is Rs. 1,01,60,014/-, which is in excess of Rs. 10,67,614/-, then the value of the goods ascertained by the chartered engineer. The total ascertained value of the goods covered under the aforesaid 04 shipping bills is 90,92,400/-.

2.1 The respondent accepted the findings of the CRCL test reports and the valuation determined by the Chartered Engineer and agreed for re-assessment of the Shipping Bills and re-determination of export incentives. The

adjudicating authority observed that under Section 50 of the Customs Act, 1962, an exporter is required to make a true, correct and complete declaration regarding description, classification and value of export goods. In the present case, the CRCL test reports conclusively established that the goods were mis-declared in terms of material composition and classification. Applying the General Rules for Interpretation of the Customs Tariff, the correct classification of the goods was determined mainly under CTH 64041990 and 64031990, instead of the headings declared by the respondent. The adjudicating authority further observed that the declared FOB value could not be accepted, as it was directly linked to the incorrect description and classification. Accordingly, the declared FOB value was rejected under Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007, and the Shipping Bills were ordered to be re-assessed under Section 17(4) of the Customs Act, 1962. Based on the Chartered Engineer's report, the total FOB value was re-determined at 90,63,204, as against the declared FOB value of ₹1,01,30,818.

2.2 As a consequence of re-determination of classification and value, the export incentives claimed by the respondent were found to be excessive. The Drawback entitlement was re-worked and restricted to 2,31,419, the RODTEP benefit was re-determined at 1,00,497, and the IGST refund was restricted to 16,36,632. The adjudicating authority held that the respondent had contravened the provisions of Sections 14 and 50 of the Customs Act, 1962, Rule 11 of the Foreign Trade (Regulations) Rules, 1993, and Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992, by making incorrect declarations in the Shipping Bills. The export goods, having re-determined FOB value of 90,63,204, were therefore held liable to confiscation under Sections 113(h), 113(i), 113(ia) and 113(ja) of the Customs Act, 1962. It was further held that the respondent had knowingly used export documents containing false and incorrect particulars, thereby rendering themselves liable to penalty under Section 114(iii) and Section 114AA of the Customs Act, 1962.

2.3 Accordingly, the adjudicating authority ordered to confiscate the goods under Section 113 (h), (i), (ia) and (ja) read with section 50(2) of the Customs Act, 1962, Rule 11 of the Foreign Trade (Regulations), 1993, Section 11 (1) of the Foreign Trade (Development and Regulation) Act, 1992. 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;

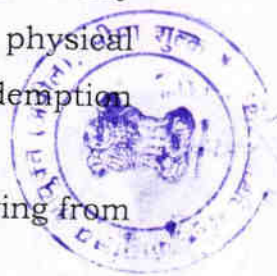
Redemption fine is imposed in lieu of confiscation of goods;

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



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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 impugned Order-in-Original passed by the Additional Commissioner of Customs, Custom House Mundra 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 F. No. S/49-36/CA-2/CUS/MUN/MAR/2025-26 dated 12.03.2026 was send to the respondent for submitting their comment. Personal hearing in the matter were scheduled on 17.03.2026. However, no comments was 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 respondent, filed four Shipping Bills, all dated 12.04.2023, for export of footwear to Ajman, UAE, declaring the goods as synthetic footwear (gents) and men's leather sandals, and availing benefits under Drawback, RoDTEP and IGST refund. Based on an NCTC alert, the consignments were flagged as high-risk on suspicion of mis-declaration and overvaluation to claim excess export incentives. Detailed examination by SIIB, Mundra, including CRCL testing and valuation by a Government-approved Chartered Engineer, revealed that the goods were mis-declared in terms of material composition and classification, and that the declared FOB value was inflated. While the declared value for the four Shipping Bills was ₹1,01,60,014/-, the ascertained value was ₹90,92,400/-. The respondent accepted these findings and agreed to reassessment. The adjudicating authority held that the respondent had violated Sections 14 and 50 of the Customs Act, 1962, rejected the declared FOB value under Rule 8 of the Export Valuation Rules, 2007, and re-determined the value at ₹90,63,204 under Section 17(4). Consequently, export incentives were reduced accordingly. The goods were held liable for confiscation under Sections 113(h), (i), (ia) and (ja), and penalties were found imposable under Sections 114(iii) and 114AA. However, since the goods had already been exported and were not physically available, the adjudicating authority ordered confiscation but did not impose redemption fine under Section 125(1) of the Customs Act, 1962.

5.1 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.

5.2 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.

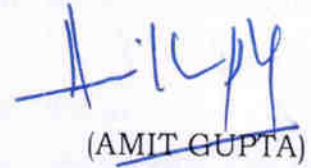
5.3 It is further observed that the appellant department has also prayed to refer the matter back to Adjudicating Authority to consider it as a fresh with regard that redemption fine is imposable irrespective of the physical availability of the goods.

5.4 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.

5.5 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 appeal 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.

  
(AMIT GUPTA)

COMMISSIONER (APPEALS)  
CUSTOMS, AHMEDABAD.

By Registered Post A.D.

F.Nos. S/49-36/CA-2/CUS/MUN/MAR/2025-26

Dated -30.03.2026

To,

(i) The Deputy Commissioner of Customs (Review),  
Custom House, Mundra.

(ii) M/s S. S. Overseas, 301-G-33,  
Gupta Tower Community Centre,  
Vikas Puri, New Delhi - 110018.



**Copy to:**

1. The Chief Commissioner of Customs Gujarat, Customs House, Ahmedabad.
2. The Principal Commissioner of Customs, Customs House, Mundra.
3. The Joint/ Additional Commissioner of Customs, Custom House, Mundra. Pl find enclosed herewith one copy of order to serve the respondent in person.
4. Guard File