



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 रोड Ishwar Bhuvan Road  
 नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009  
 दूरभाष क्रमांक Tel. No. 079-26589281

DIN – 20251064WS0000444B11

क	फ़ाइल संख्या FILE NO.	S/49-116/CUS/AHD/23-24
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) :	AHD-CUSTM-000-APP-297-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	28.10.2025
ङ	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Orders – In – Original No. 24/ADC-MSD/ICD-SACHIN/O&A/2018-19 dated 31.07.2018/10.08.2018 issued by the Additional Commissioner, Customs, ICD-Sachin, Surat & CESTAT, Ahmedabad Bench Final Order No.: A/10299/2023 dt. 09.02.2023.
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	28.10.2025
	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	Shri Jitendra Tiwari, Proprietor of M/s Trivedi Creation, 102, Shirdi Dham Society, Navagam, Dindoli, Udhana, Surat-394210.



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 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	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
(घ)	4 copies of the Application for Revision.
	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/- (रुपए दो सौ मात्र) या रु.1000/- (रुपए 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 रुपए 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, केंद्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	<b>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</b>
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 <sup>nd</sup> 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 हजार 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; पाँच हजार 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 हजार 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.	
	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**

The CESTAT, Ahmedabad Regional Bench passed Final Order No.: A/10299/2023 dt. 09.02.2023 in the matter of Customs Appeal No.: 10775/2020 filed by Shri Jitendra Tiwari, Proprietor of M/s Trivedi Creation, 102, Shirdi Dham Society, Navagam, Dindoli, Udhana, Surat-394 210 (herein after referred as the appellant) against the OIA No.: AHD-CUSTOM-000-APP-201-20-21 dated 07.08.2020 passed by the Commissioner(Appeals), Customs, Ahmedabad. The CESTAT, Ahmedabad set aside the said OIA and remanded the matter to the Commissioner (Appeals) to verify the proof of delivery of the order to the appellant. In case the proof is not available, then the date claimed by the appellant for delivery of the order should be accepted and appeal be decided on merit.

2. Facts of the case, in brief, on the basis of available records, the officers of the Directorate of Revenue Intelligence (DRI), Surat Unit received specific information that M/s Rudrani Impex Pvt. Ltd. (RIPL), Surat, was involved in evasion of customs duty. It was alleged that RIPL imported Computerized Embroidery Machines from China using dummy Import Export Codes (IECs) and EPCG licenses to claim zero or concessional (3%) customs duty under Notification No. 22/2013-Cus dated 18.04.2013 and Notification No. 103/2009-Cus dated 11.09.2009. It is also alleged that M/s RIPL, in collusion with others, had obtained EPCG licenses in the names of fake or dummy firms from the DGFT, Imported the machines and showed them as High Sea Sales to these dummy firms as well as to some genuine firms, cleared the goods at nil or concessional duty and later sold the machines in cash in the local market.

2.1 Acting on this intelligence, the DRI officers searched the office of RIPL at Union Trade Centre, Surat, on 29.11.2013, in the presence of independent witnesses and the company's directors, Shri Salil Natvarlal Shah and Shri Kaushal D. Shukla. Several incriminating documents were recovered and seized under the Customs Act, 1962 for investigation. A Show Cause Notice dated 26.05.2014 (F. No. DRI/AZU/SRU-81/2013) was later issued to RIPL and others by the Additional Director General, DRI, Ahmedabad. Subsequently, the Assistant Director, DRI, Surat sent original records of EPCG License, Bills of Entry & Bank Guarantees of M/s Trivedi Creation, Surat, a firm to which M/s RIPL had sold machines on High Sea Sale basis, for taking further action. An investigation was conducted against M/s Trivedi Creation, Surat (IEC No. 5212000700), which had obtained EPCG Authorisation No. 5230010323 dated 27.04.2012 from DGFT, Surat to import Computerized Embroidery Machines at 3% concessional duty under Notification



No. 103/2009-Cus. dated 11.09.2009, read with Para 5.3.1 of the EXIM Policy 2009–2014. The EPCG licence was registered with Customs, ICD, Sachin, Surat on 10.05.2012, and the imported machines were to be installed at 233–234, Sonal Industrial Estate-I, Bamroli Road, Pandesara, Surat. However, when the Central Excise officers visited the site on 18.07.2016, they found that the premises was being used by M/s H.K. Textile, owned by Shri Alpesh Patel, for the past 7–8 years. No unit named M/s Trivedi Creation existed there, and no embroidery machines were installed.

2.2 It was revealed that M/s Rudrani Impex Pvt. Ltd. (RIPL) had actually imported 12 computerized embroidery machines worth ₹61,04,553/-, showing them as sold on High Sea Sale basis to the dummy firm M/s Trivedi Creation to claim the concessional 3% duty benefit under the EPCG Scheme. In reality, these machines were sold in cash in the local market by Shri Salil Shah, Director of RIPL. Therefore, the EPCG licence obtained in the name of M/s Trivedi Creation was found to be fake and based on forged documents. The imports thus violated Para 5.1 and 5.2 of the Foreign Trade Policy, Notification No. 103/2009-Cus, and Rule 14 of the Foreign Trade (Regulation) Rules, 1993, read with Section 11 of the FT (Development & Regulation) Act, 1992. Consequently, the duty exemption claimed is not admissible, and the imported machines are liable to full customs duty.

2.3 A Show Cause Notice dated 25.04.2017 was issued to M/s Rudrani Impex Pvt. Ltd. (RIPL) proposing to Deny the benefit of 3% concessional duty under the EPCG Scheme (Notification No. 103/2009-Cus dated 11.09.2009) for 12 imported computerized embroidery machines, Confiscate the said goods under Section 111(o) of the Customs Act, 1962, Recover the applicable customs duty with interest, Encash the bank guarantee and enforce the bond furnished by the dummy firm. The SCN also proposed to impose penalties under Sections 112(a) and 114AA of the Customs Act, 1962 on the appellant, Shri Salil Shah, Director of RIPL, Shri Brij Kishore Goel, Chartered Engineer, and Shri Ranjish Das, Consultant.

2.4 The adjudicating authority vide Order-In-Original No.: 24/ADC-MS/ICD-Sachin/O&A/2018-19 dated 31.07.2018/10.08.2018 ( herein after to referred as Impugned order) has denied the benefit of Concessional rate of duty, ordered to confiscate the 12 computerized Embroidery machines, upheld the demand of Custom Duty of Rs.12,06,460/- from M/S RIPL, Ordered to appropriate Bank guarantee, ordered to enforce the bond, ordered to recover interest, imposed penalty of Rs. 12,06,450/- on M/S RIPL, Imposed Penalty of Rs.1,20,000/- and Rs.10,00,000/- on Shri Salil shah ,



Director of M/S RIPL under section 114A and 112(a) respectively. Imposed Penalty of Rs. 1,20,000/- and Rs. 4,00,000 on the appellant, on Shri Brij Kishore Goel, Chartered Engineer, on Shri Ranjish Das, consultant under section 112(a) and section 114AA respectively.

2.5 Being aggrieved with the impugned order, the appellant preferred appeal with the Commissioner(A), Customs Ahmedabad, who vide Order-In-Appeal No.: AHD-CUSTOM-000-APPP-201-20-21 dated 07.08.2020 rejected the appeal of the appellant on ground of limitation. He observed that the impugned order dt. 31.07.2018/ 10.08.2018 had been delivered on 17.08.2018, whereas the appeal was filed on 14.11.2019, therefore there is delay of 394 days in filing appeal which is beyond the stipulated days of 60 days as given under Section 128 of the Customs Act, 1962.

2.6 Aggrieved by the said Order-in-Appeal, the appellant preferred an appeal before the CESTAT, Ahmedabad Regional Bench. The Tribunal, vide Final Order No. A/10299/2023 dated 09.02.2023, set aside the impugned Order-in-Appeal and remanded the matter to the Commissioner (Appeals) to verify the proof of delivery of the impugned order ( OIO) to the appellant. In case the proof is not available, then the date claimed by the appellant for delivery of the order should be accepted and appeal be decided on merit.

3. The appellant was given personal hearing in the matter to present their case. Ms. Deepali Kamble Advocate, attended personal hearing on behalf of Shri Jitendra Tiwari, proprietor of M/s Trivedi Creation, Surat on 15.10.2025 through virtual mode. She had reiterated the submissions made in the appeal memorandum. She also submitted that a person named Salil Shah asked him for pan card and photo to start some business but after taking the card he misused it. The Appellant never met him thereafter, the appellant came to know only during the investigation that his pan card was misused. The Appellant states that he was a salaried person the copy of specimen copies of salary slips, Income Tax returns for the F.Y 2013 & 2014, letter dt. 30.11.2009 issued by M/s Auto Point Car Division that Shri Jitendra Tiwari worked as Technician since 4<sup>th</sup> Oct 2005 are enclosed. The Appellant stated that he is no were concern with any evasion or had any Intention to defraud Government. The Appellant states that his identity card has been misused hence the penalty may please be dropped in the Interest of justice.

4. I have gone through the Final Order No. A/10299/2023 dated 09.02.2023 passed by the CESTAT, Ahmedabad Regional Bench. I observed that the CESTAT, Ahmedabad bench in its order dt. 09.02.2023 gave clear directions to verify the proof of



delivery of the impugned order ( OIO) to the appellant and in case, the proof is not available, then the date claimed by the appellant for delivery of the order should be accepted and appeal be decided on merit. Therefore, in the remand proceedings, the primary issue is to verify the actual date of delivery of the impugned order to the appellant and decide the matter accordingly.

It is observed from the available record file that the Deputy Commissioner, Customs, Surat, vide letter F.No.: VIII/10-16/O&A/Trivedi/2016 dt. 21/07/2020 informed that the Order-In-Original No.: 24/ADC-MSD/ICD-Sachin/O&A/2018-19 dated 31.07.2018/10.08.2018 has been dispatched thorough RPAD and the same was received by them through post at his residential address 102, Sirdi Dham Society, Navagam, Dindoli, Udhana, Surat- 394210 on 17.08.2018. A duly signed acknowledgement received from post is enclosed herewith for ready reference.

In this regard, copy of above letter dt. 21.07.2020 and acknowledgement received from the postal authority are produced herein below :

(i) Acknowledgement received from the Postal Authority :

आर.पो. 54  
P.D. 54

भारतीय डाक विभाग  
DEPARTMENT OF POST : INDIA

प्राप्ति स्वीकृति / ACKNOWLEDGEMENT

रजिस्ट्री-पत्र/पार्सल प्राप्त हुआ  
Received Registered Letter/Parcel


क्रमांक/No.	तारीख/Dated	का/of
• बीमे का मूल्य रुपये में	Shri Jitenchandra Tiwari	
• Insured for Rupees		
• पाने वाले	Proprietor of M/s Trivedi Creation	
Addressed to	102 Sirdi Dham Society	
	Navagam Dindoli Udhana	
को/On	Surat - 394 210	
वितरण डाकघर की तारीख-मोहर Date stamp of office of delivery	हस्ताक्षर और नाम/Signature and Name	
	X [Signature]	

PSD/AML-Pig.10/2017-18/PRINT & PACK WORLD/100000 Pds

अनावश्यक को काट दिया जाए  
Strike out if not relevant

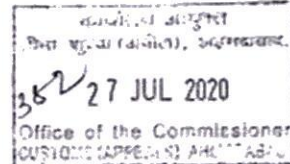
मुद्रित (अपील) सीमा कार्यक्षेत्र  
अहमदाबाद.

(ii) Copy of letter dt. 21.07.2020 issued by the Deputy Commissioner, Customs, Surat.

<p>अपर आयुक्त कार्यालय सीमा शुल्क मण्डल, सुरत बोधी मठिल सीमा शुल्क भवन, अल्थान भीमराड रोड, महाराष्ट्र कर्नाटक के पास, सी.एम. अल्थान, सुरत 394210. दूरभाषः, फैक्स :</p>	 3565	<p>OFFICE OF THE JOINT COMMISSIONER OF CUSTOMS 4<sup>th</sup> Floor, CUSTOM HOUSE, ALTHAN BHIMRAD ROAD, NR. SMC WARD OFFICE, ALTHAN, SURAT - 395007 PHONE: , FAX Email: adccussurat@gmail.com</p>
<p><b>BY Speed Post/Mail</b> F.No.VIII/10-16/O&amp;A/Trivedi/2016</p>		

Surat, dated 21.07.2020

To,  
The Superintendent(Appeals),  
Customs, Ahmedabad.  
6<sup>th</sup> Floor, Mrudul Tower, Opp. Bata Show Room,  
Ashram Road, Navarangpura, Ahmedabad-380 009



Sub: - Appeal filed by Shri Jitendra Tiwari, against OIO No. 24/ADC-Misc/ICD-Sachin/O&A/2018-19 dated 31.07.2018/10.08.2018 assessed by the Additional Commissioner, Customs, Ahmedabad, comments thereon.

Please refer to your letter F.No. 8/49-409/CUS/AHD/2019-20 dated 02.12.2019 on the above subject.

In this connection it is to submit that the OIO No. 24/ADC-Misc/ICD-Sachin/O&A/2018-19 dated 31.07.2018/10.08.2018 has been dispatched through RPAD and the same was received by them through post at his residential address 102, Sirdi Dham Society, Navagam, Dindoli, Udhana, Surat-394210 on 17.08.2018. A duly signed acknowledgement received from post is enclosed herewith for ready reference please.

Encl : As Above

(Dr. Prasad Varwantkar)  
Deputy Commissioner  
Customs, Surat



5. In view of the above proof available on records, in terms of letter F.No.: VIII/10-16/O&A/Trivedi/2016 dt. 21/07/2020 issued by the Deputy Commissioner, Customs, Surat and RPAD duly signed acknowledgement received from post, it is confirmed that the impugned order delivered on 17.08.2018 to the appellant. Therefore, it is observed that the date of communication of the impugned order dated 31.07.2018/10.08.2018 to the appellant is 17.08.2018, while the appeal was filed on 14.11.2019. Accordingly, I find that the present appeal has been filed after a delay of 394 days, which is beyond the prescribed period of 60 days plus further period of 30 days, as provided under Section 128(1) of the Customs Act, 1962.



5.1 Here, it will be useful to refer to the relevant provisions governing the procedure of filing an appeal before the Commissioner (Appeals) and his powers to condone the delay in filing appeals beyond 60 days. Extracts of relevant Section 128 of the Customs Act, 1962 are reproduced below for ease of reference :

*SECTION 128. Appeals to [Commissioner (Appeals)]. — (1) Any person aggrieved by any decision or order passed under this Act by an officer of customs lower in rank than a [Principal Commissioner of Customs or Commissioner of Customs] may appeal to the [Commissioner (Appeals)] [within sixty days] from the date of the communication to him of such decision or order.*

*[Provided that the Commissioner (Appeals) may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of sixty days, allow it to be presented within a further period of thirty days.]*

5.2 Section 128 of the Customs Act, 1962 makes it clear that the appeal has to be filed within 60 days from the date of communication of order. Further, if the Commissioner (Appeals) is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of 60 days, he can allow it to be presented within a further period of 30 days.

5.3 It will also be relevant to refer to the judgment of Hon'ble Supreme Court in case of Singh Enterprises – [2008 (221) E.L.T. 163 (S.C.)], wherein the Hon'ble Apex Court had, while interpreting the Section 35 of the Central Excise Act, 1944, which is pari materia to Section 128 of the Customs Act, 1962, held that the appeal has to be filed within 60 days, but in terms of the proviso, further 30 days time can be granted by the appellate authority to entertain the appeal. The proviso to sub-section (1) of Section 35 makes the position crystal clear that the appellate authority has no power to allow the appeal to be presented beyond the period of 30 days. The relevant para is reproduced below :



“8. The Commissioner of Central Excise (Appeals) as also the Tribunal being creatures of Statute are vested with jurisdiction to condone the delay beyond the permissible period provided under the Statute. The period upto which the prayer for condonation can be accepted is statutorily provided. It was submitted that the logic of Section 5 of the Indian Limitation Act, 1963

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*(in short the 'Limitation Act') can be availed for condonation of delay. The first proviso to Section 35 makes the position clear that the appeal has to be preferred within three months from the date of communication to him of the decision or order. However, if the Commissioner is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of 60 days, he can allow it to be presented within a further period of 30 days. In other words, this clearly shows that the appeal has to be filed within 60 days but in terms of the proviso further 30 days time can be granted by the appellate authority to entertain the appeal. The proviso to sub-section (1) of Section 35 makes the position crystal clear that the appellate authority has no power to allow the appeal to be presented beyond the period of 30 days. The language used makes the position clear that the legislature intended the appellate authority to entertain the appeal by condoning delay only upto 30 days after the expiry of 60 days which is the normal period for preferring appeal. Therefore, there is complete exclusion of Section 5 of the Limitation Act. The Commissioner and the High Court were therefore justified in holding that there was no power to condone the delay after the expiry of 30 days period."*

The above view was reiterated by the Hon'ble Supreme Court in Amchong Tea Estate [2010 (257) E.L.T. 3 (S.C.)]. Further, the Hon'ble High Court of Gujarat in case of Ramesh Vasantbhai Bhojani – [2017 (357) E.L.T. 63 (Guj.)] took a similar view while dealing with Section 128 of the Customs Act, 1962.

5.4 In terms of legal provisions under Section 128 of the Customs Act, 1962 and in light of above pronouncements by the Hon'ble Supreme Court and Hon'ble High Court, it is settled proposition of law that the appeals before first appellate authority are required to be filed within 90 days, including the condonable period of 30 days as provided in the statute, and the Commissioner (Appeals) is not empowered to condone any delay beyond 30 days.

5.5 In light of the above observation, I find that the present appeal has been filed after 90 days from the date of receipt of the order. Hence, the same is time barred. Therefore, in the present appeal matter, I am not empowered to condone the delay in filing these appeals. Therefore, I reject the same on the grounds of limitation without going into the merits of individual case.



6. In light of the foregoing facts and circumstances and in pursuance of the directions of the Hon'ble CESTAT, Ahmedabad Bench, I hereby reject the present appeal on the ground of limitation, as prescribed under Section 128 of the Customs Act, 1962, without entering into the merits of the case.



Amit Gupta )  
Commissioner (Appeals),  
Customs, Ahmedabad

F. No.: S/49-116/CUS/AHD/2023-24

Date : 28.10.2025

By Speed Post.

To,  
Shri Jitendra Tiwari,  
Proprietor of M/s Trivedi Creation,  
102, Shirdi Dham Society,  
Navagam, Dindoli,  
Udhana, Surat-394210.



Copy to:

1. The Chief Commissioner of Customs Gujarat, Custom House, Ahmedabad.  
(email: [ccoahm-guj@nic.in](mailto:ccoahm-guj@nic.in))
2. The Principal Commissioner of Customs, Custom House, Ahmedabad.  
(email: [cus-ahmd-guj@nic.in](mailto:cus-ahmd-guj@nic.in) [rra-customsahd@gov.in](mailto:rra-customsahd@gov.in))
3. The Additional Commissioner of Customs, Surat. (email: [adjcus-surat@gov.in](mailto:adjcus-surat@gov.in) [cus-ahmd-adj@gov.in](mailto:cus-ahmd-adj@gov.in)) .
4. The Deputy/Assistant Commissioner of Customs, ICD-Sachin, Surat. ([icd-sachin@gov.in](mailto:icd-sachin@gov.in))
5. Ms. Deepali Kamble, Advocate ([dipali\\_2000@yahoo.com](mailto:dipali_2000@yahoo.com))
6. Guard File.