सत्यमेव जयते

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 - 20260371MN0000222BE5

क	फ़ाइल संख्या FILE NO.	S/49-175/CUS/AHD/SEP/2025-26
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-778-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	31.03.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original no. 51/AC/ACC/OIO/Prosperity/2025-26 dated 30.08.2026
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	31.03.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s Prosperity Bullion Pvt. Ltd., Office No. 402, 4th Floor, ADN House, Building No. 157-161, Shaikh Memon Street, Zaveri Bazar, Mumbai - 400002

कार्यालय आयुक्त (अपील), सीमा शुल्क, अहमदाबाद

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 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)	बैगेज़ 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 दस्तावेज़ों 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 हज़ार मात्र), जैसा भी मामला हो, से सम्ब न्धित 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 सम्बंन्ध 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	**Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench**
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2nd 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 रुपए.**	
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;	
(ख)	**अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच हज़ार रुपए**	
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;	
(ग)	**अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हज़ार रुपए.**	
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees	
	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

The present appeal has been filed by M/s Prosperity Bullion Pvt. Ltd., Office No. 402, 4th Floor, ADN House, Building No. 157-161, Shaikh Memon Street, Zaveri Bazar, Mumbai - 400002 (hereinafter referred to as the "appellant") under Section 128 of the Customs Act, 1962, challenging Order-in-Original No. 51/AC/ACC/OIO/Prosperity/2025-26 dated 30.08.2025 (hereinafter referred to as "the impugned order") passed by the Assistant Commissioner of Customs, Air Cargo Complex, Ahmedabad (hereinafter referred to as "the Adjudicating Authority").

2.1 The facts of the case, in brief, are that the appellant filed a refund application vide ARN No. ARNIG020620251505050001 dated 02.06.2025 for an amount of Rs. 11,67,001/- on account of alleged double payment of customs duty in respect of goods imported under Bill of Entry No. 8066204 dated 29.01.2025 filed at ACC, Customs Ahmedabad. The appellant had imported assorted 92.5% silver jewellery classifiable under CTH 71131141 and discharged duty liability amounting to Rs. 11,67,001/- vide challan dated 31.01.2025. It was contended that due to a technical glitch in the EDI/ICES system, the initial payment was not reflected, leading to a second payment of the same amount, resulting in double payment of duty. Accordingly, the appellant filed a refund claim along with supporting documents including Chartered Accountant certificate, ICEGATE ledger, bank receipt, and challan details.

2.2 On scrutiny, it was observed that the refund claim had been filed under Section 26A of the Customs Act, 1962, which does not provide for refund of excess or duplicate duty paid. Consequently, the adjudicating authority held that the appellant was not eligible for refund under the said provision and rejected the refund claim of Rs. 11,67,001/- vide the impugned order.

SUBMISSIONS OF THE APPELLANT:

3. Being aggrieved with the impugned order, the Appellant has filed the present appeal against the order passed by the Adjudicating Authority. The Grounds of Appeal are not reproduced in detail for sake of brevity, as the copy of the same is available with the Appellant as well Respondent. However, the same have been examined and the brief is as under:

3.1 The appellant submits that the impugned order has erred in

rejecting the refund claim solely on the ground that the same was filed under Section 26A of the Customs Act, 1962, which does not provide for refund of excess duty paid. It is contended that quoting of an incorrect statutory provision is a procedural lapse and the same is curable in nature. The appellant submits that the refund application was filed online for the first time on the ICEGATE portal pursuant to the newly introduced system under Circular No. 05/2025-Customs, and due to inadvertent error and miscommunication with the helpdesk, Section 26A was selected instead of Section 27. It is argued that substantive benefit cannot be denied on account of such procedural infirmity, particularly when the fact of double payment of duty is not disputed by the department.

3.2 The appellant further submits that the excess amount paid due to duplication cannot be treated as "duty" but is in the nature of a deposit, and therefore refundable. Reliance is placed on judicial pronouncements including Paros Electronics Pvt. Ltd. v. Union of India and UPL Ltd. v. UOI, wherein it has been held that amounts paid without authority of law or by mistake are refundable and limitation provisions may not strictly apply. It is also contended that retention of such excess amount by the department would be violative of Article 265 of the Constitution of India.

3.3 Invoking the doctrine of "substance over form", the appellant submits that the essence of the claim is refund of double payment of duty, and mere quoting of a wrong provision should not defeat a legitimate claim. Reliance is placed on decisions of the Hon'ble Supreme Court in Mangalore Chemicals & Fertilizers Ltd. and Sambhaji v. Gangabai, as well as Tribunal decisions in Schneider Electric Infrastructure Ltd. and Systronics (India) Ltd., to contend that procedural lapses should not override substantive rights.

3.4 The appellant also submits that the doctrine of unjust enrichment is not applicable in the present case as the incidence of duty has not been passed on to any other person, which is also acknowledged in the impugned order. Therefore, refund, if otherwise admissible, ought to be granted under Section 27 of the Customs Act, 1962.

3.5 In view of the above, the appellant prays that the refund claim be considered as filed under Section 27 of the Customs Act, 1962 and be allowed on merits. Alternatively, the appellant seeks permission to file a fresh refund

claim, if required.

PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 17.03.2026 following the principles of natural justice wherein Shri Deepaksingh Zala, Consultant appeared for the hearing and re-iterated the submissions made at the time of filing the appeal.

DISCUSSION AND FINDINGS:

5. I have carefully gone through the impugned order, the grounds of appeal, and the submissions made by the appellant. The issues that arise for determination in the present case are whether the refund claim filed by the appellant is liable to be rejected merely on the ground that it was filed under an incorrect provision i.e. Section 26A instead of Section 27 of the Customs Act, 1962, and whether the appellant is otherwise entitled to refund of Rs. 11,67,001/- on account of admitted double payment of duty.

5.1 On perusal of records, I find that the adjudicating authority has rejected the refund claim solely on the ground that Section 26A does not provide for refund of excess duty paid. However, it is an undisputed fact on record that the appellant had made double payment of duty amounting to Rs. 11,67,001/- due to a technical glitch in the EDI system. Thus, the factum of excess payment is not in dispute.

5.2 The core issue, therefore, is whether such refund can be denied merely on account of quoting of a wrong statutory provision. In this regard, I find that it is a settled position of law that procedural lapses should not defeat substantive rights. Mere mention of an incorrect provision cannot be a ground to deny a legitimate claim, if the entitlement is otherwise established. The Hon'ble Supreme Court in Mangalore Chemicals & Fertilizers Ltd. has held that procedural technicalities cannot be allowed to come in the way of substantive justice. In the present case, the appellant has explained that the error in mentioning Section 26A instead of Section 27 occurred due to inadvertence while filing the refund application online in a newly introduced system, which appears to be a reasonable explanation.

5.3 Further, I find merit in the contention that the excess amount paid due to duplication cannot be treated as "duty" but partakes the character of a deposit. It is a settled principle that any amount collected without authority of law cannot

be retained by the Government in view of Article 265 of the Constitution of India. Therefore, retention of such excess amount would be unjust and not sustainable in law.

5.4 As regards unjust enrichment, it is observed that the appellant has furnished a Chartered Accountant's certificate and there is no finding in the impugned order that the incidence of duty has been passed on to any other person. Accordingly, the bar of unjust enrichment is not attracted in the present case.

5.5 In view of the foregoing discussion and findings, I set aside the impugned order rejecting the refund claim filed by the appellant. I hold that mere quoting of an incorrect provision i.e. Section 26A instead of Section 27 of the Customs Act, 1962 cannot be a ground for denial of refund, particularly when it is an admitted position that the appellant had made double payment of duty.

5.6 Accordingly, the refund claim of Rs. 11,67,001/- (Rupees Eleven Lakhs Sixty Seven Thousand One Only) is held to be admissible to the appellant under Section 27 of the Customs Act, 1962.

5.7 The adjudicating authority is directed to process and sanction the refund claim accordingly, in accordance with law.

6. The appeal is allowed in the above terms

(अपील), सीमा शुल्क, अहमदाबाद.

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

(AMIT GUPTA)
Commissioner (Appeals),
Customs, Ahmedabad

F. No. S/49-175/CUS/AHD/SEP/2025-26 Date: 31.03.2026

By Registered post A.D/E-Mail

To,

M/s Prosperity Bullion Pvt. Ltd.,
Office No. 402, 4th Floor, ADN House,
Building No. 157-161, Shaikh Memon Street,
Zaveri Bazar, Mumbai - 400002

Copy to:

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.
2. The Principal Commissioner of Customs, Ahmedabad.
3. The Assistant Commissioner of Customs, Air Cargo Complex, Ahmedabad.
4. Guard File.