



प्रधानआयुक्तकाकार्यालय, सीमाशुल्क, अहमदाबाद

सीमाशुल्कभवन, आलइंडीयारेडीऑकेबाजुमे, नवरंगपुरा, अहमदाबाद 380 009

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SHOW CAUSE NOTICE

M/s Vidya Wires Private Limited, Plot No. 8/ 1-2, GIDC Main Road, Vithal Udyognagar, Dist. Anand, Gujarat-388121 (herein after referred to as the "Noticee"/"Importer") having Import – Export Code No. 3495003843/2, had submitted refund claim dated 20.11.2024, amounting to Rs. 2,45,94,071/- under Section 27 of the Customs Act, 1962, in respect of interest paid by them. The Noticee had submitted that they had imported goods under Advance Authorization scheme and at the time of import the IGST was not paid. As they received information about not meeting pre-import conditions, they requested for re-assessment and made IGST payment alongwith applicable interest amounting to Rs. 2,45,94,071/. The details of interest are as under:

Sr. No.	Bill of Entry No.	BE date	Challan No.	Interest paid (Rs.)
1.	8423888	11.10.2018	2044927156	16,19,032
2.	9235482	13.12.2018	2044927141	14,88,003
3.	9336306	20.12.2018	2044927131	13,95,910
4	9428096	27.12.2018	2044927123	13,80,888
5.	9428130	27.12.2018	2044927115	13,80,115
6.	2064525	15.02.2019	2044927099	13,58,572
7.	2157860	22.02.2019	2044927092	13,74,110
8.	3731586	20.06.2019	2044927085	11,97,499
9.	3841254	27.06.2019	2044927078	12,40,009
10.	3840800	27.06.2019	2044927071	12,35,229
11.	4034912	12.07.2019	2044927044	11,84,701
12.	4040222	12.07.2019	2044927031	11,82,105
13.	4037682	12.07.2019	2044927022	11,73,393
14.	4037285	12.07.2019	2044927021	11,71,050
15.	9336712	20.12.2018	2044926993	14,08,023
16.	2238776	28.02.2019	2044926981	13,57,163
17.	8322188	04.10.2018	2044927164	12,87,506
18.	9970996	07.02.2019	2044927105	13,699,54
19.	3933019	04.07.2019	2044927064	2,49,865

20.	3933205	04.07.2019	2044927056	5,40,944
			TOTAL	2,45,94,071

2. The noticee stated that in accordance with the Supreme Court judgment in the case of Cosmo Films Ltd. [2023(385) ELT 66 (SC)] and Final Order No. 11628- 11630/2024 dated 23.07.2024 passed by CESTAT, Ahmedabad in Appeal No. C/10228-10230/2024 in the case of M/s Chiripal Poly Films Ltd. Vs. Commissioner of Customs, Ahmedabad, the claim was filed for refund of the interest so paid. They further stated that as the incidence of re-assessment was to be revenue neutral as observed by the Hon'ble Supreme Court, the interest paid by them is an unjustified cost to them. It appeared that the Noticee had filed the aforesaid 20 Bills of Entry at Hazira Port Surat during the relevant period where they had violated the pre-import condition and requested for re-call and re-assessment of the said Bills of Entry. Therefore, with reference to request of the Noticee, the subject Bills of Entry were re-called and reassessed and the Noticee had paid the IGST alongwith interest in terms of Circular No. 16/2023-Cus. dated 07.06.2023.

3. The above refund claim of Rs. 2,45,94,071/- was sanction to the Noticee by the Assistant Commissioner, Customs, Hazira Port vide Order-In-Original No. 22/AC/CHH/REFUND/2025-26 dated 02.06.2025, under the provisions of Section 27 of the Customs Act, 1962. The Assistant Commissioner, Customs, Hazira Port under the said Order-in-Original has observed as under:

“That the Hon’ble Supreme Court in the case of Cosmo Films Limited [Civil Appeal No. 290 of 2023] had nowhere mentioned about payment of interest. That at the material time, Section 3(12) of the Customs Tariff Act, 1975 did not authorize the collection of interest on the late payment of duty under Section 3 of the Act. The said Section 3(12) of the Customs Tariff Act was amended vide Finance Act, 2024 dated 16 August 2024, applicable w.e.f. 16 August 2024, to provide that all the provisions of the Customs Act including those relating to the date for determination of rate of duty, assessment, non-levy, short-levy, refunds, exemptions, interest, recovery, appeals, offences and penalties shall pari materia apply to duties leviable under Section 3 of the Customs Tariff Act. The instant matter of payment of interest related to period prior to this enactment. In the case of Mahindra & Mahindra Ltd. [Writ Petition No. 1848 of 2009], the Hon’ble Bombay High Court had held that the provisions relating to interest and penalty relating to CVD i.e. additional duty relating to excise or SAD i.e. special additional duty or surcharge were not borrowed from the Customs Act, 1962, therefore imposing interest and penalty on the portion of the demand pertaining to surcharge or additional duty of customs or special additional duty of customs was incorrect and without jurisdiction. Further, the Hon’ble CESTAT, Ahmedabad in the case of M/s Chiripal Poly Films Ltd vs Commissioner of Customs, Ahmedabad [Customs Appeal No. 10229 of 2024] had held that the Circular No. 16/2023-Cus dated 07-06-2023 directing to charge applicable interest is ex-facie, contrary to provision for charging “interest” u/s 3(7) of Customs Tariff Act 1975. Further, the Assistant Commissioner also relied upon judgments of Hon’ble CESTAT, Chennai in the case of M/s Flextronics Technology India Pvt. Ltd. vs. Commissioner of Customs [Final Order No. 40320/2025, dated 11.03.2025 and Hon’ble Bombay High Court in the case of A. R. Sulphonates Private Limited vs UOI [Writ Petition No. 19366 of 2024 dated April 9, 2025]. In view of the above judicial pronouncements, the interest amount on IGST paid by the noticee in terms of Circular

No. 16/2023 Cus dated 07.06.2023, was refundable to them. Moreover, the decision of Hon'ble CESTAT, Ahmedabad in the case of M/s Chiripal Poly Films Ltd. Vs. Commissioner of Customs, Ahmedabad [Customs Appeal No. 10228 of 2024] is squarely applicable since the issue involved was identical in both the cases and the refund claim was also not hit by doctrine of unjust enrichment nor been hit by the limitation of time bar under the Section 27 of the Customs Act. 1962. "

4. The above Order-in-Original passed by the Assistant Commissioner of Customs, Adani Hazira Port, Hazira, was reviewed by the Principal Commissioner of Customs, Ahmedabad, accordingly, an appeal was filed by the Assistant Commissioner of Customs, Adani Hazira Port, before the Commissioner of Customs (Appeals), Ahmedabad on 19.08.2025 against the said Order-In-Original No. 22/AC/CHH/REFUND/2025-26 dated 02.06.2025, on the following grounds:

(i) The Noticee voluntarily paid IGST and interest simultaneously in compliance with CBIC Circular No. 16/2023-Cus. dated 07.06.2023 which was issued as per directives of the Hon'ble Supreme Court judgement. At that point, the law (by way of circular) required payment of interest. After payment of interest, the issue had attained finality and the refund claim is nothing but an afterthought.

(ii) The Adjudicating Authority had grossly erred in relying upon the CESTAT Order No. 11628-11630/2024 date 23.07.2024 in respect of CHIRIPAL POLY FILMS LTD which in turn had relied upon the Bombay High Court decision in case of Mahindra & Mahindra. The CESTAT in case of M/s Chiripal Industries had held that no specific provision was made for recovery or charging of Interest, Fine and penalty u/s 3(7) and 3(12) of the Customs Tariff Act, 1975 as compared to such similar provisions made under Section 8B (9) and section 9A (8) of the Customs Tariff Act, 1975 and the demand of IGST duty had been held time barred in the CESTAT order. The Adjudicating Authority had relied upon the above judgement and citing that no stay had been obtained by the Department in the Tax Appeal 36356/2024, 36358/2024 & 36379/2024 filed by the Department before the Hon'ble High Court of Gujarat against the CESTAT Order No. 11628-11630/2024 date 23.07.2024 in respect of CHIRIPAL POLY FILMS LTD, and had sanctioned refund of interest of Rs. 2,45,94,071/- to the Noticee in Order-In-Original No. 22/AC/CHH/REFUND/2025-26 dated 21.05.2025.

(iii) However, it appeared that the present case involved some distinguishable facts which were not involved in case of M/s. Mahindra & Mahindra Ltd. (supra) and there were several other decisions on the similar issue, which were in the favour of the department.

(iv) The interest payment of Rs. 2,45,94,071/- in case of Noticee was recoverable under Section 28AA of the Customs Act, 1962 invoking the provision of Section 143 of the Customs Act, 1962. The importer had executed the Bond at the time of import under Advance Authorisation and had undertaken to pay the duty along with interest as stipulated under Notification No.18/2015-Customs dated 01-04-2015, as amended by Notification No. 79/2017-Cus, dated 13-10-2017. It was a contractual obligation on the part of the importer to pay the duty along with interest as per the condition of Notification. **The Revenue was empowered as per provisions of Section 143 of the Customs Act, 1962 to enforce the Bond which was not having any time barring aspect.** In the present case, there was specific conditions laid down under Notification No. 18/2015 dated 01-04-2015, as

amended by Notification No. 79/2017 Cus, dated 13-10-2017. The condition no. (iv) of the Principal Notification No. 18/2015-Customs dated 01-04-2015 under which the importer had claimed the payment of IGST, is reproduced hereunder:

"iv) that in respect of imports made before the discharge of export obligation in full, the importer at the time of clearance of the imported materials executes a bond with such surety or security and in such form and for such sum as may be specified by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, binding himself to pay on demand an amount equal to the duty leviable, but for the exemption contained herein, on the imported materials in respect of which the conditions specified in this notification are not complied with, together with interest at the rate of fifteen per cent per annum from the date of clearance of the said materials.

(v) In the case of Mahindra and Mahindra, no bond had been furnished by the assessee while in the present case the importer M/s Vidya Wires Private Limited had duly furnished a bond under Section 143 of the Customs Act, 1962. The law empowers the officers of Customs to enforce the bond when conditions were not fulfilled. In addition, there was no time limit for enforcement of the bond filed under Section 143(1) of the Customs Act, 1962, as it was a continuous liability on the part of the importer to follow the conditions prescribed in the Bond. Hence, the ratio in case of Mahindra & Mahindra was not applicable to the case in hand.

(vi) The noticee's intention was to voluntarily pay the Integrated Goods and Services Tax (IGST) along with the applicable interest. However, they did not file an appeal with the Commissioner of Customs (Appeals) to challenge the assessment or self-assessment at the relevant time. This inaction suggested that the noticee had accepted the assessment, which required payment of IGST and interest, and the assessment has attained finality.

(vii) With the assessment of bills of entry had attained finality after following the procedure laid down Circular No. 16/07-02-2023 and the question of sanctioning refund thereafter did not arise. However, on the issue sanctioning the refund without challenging the assessment, the refund was not permitted as per the Hon'ble Supreme Court in the case of ITC Limited Vs. Commissioner of Central Excise, Kolkata-IV reported in 2019 (368) E.L.T. 216 (S.C.), wherein it had been clearly held that claim for refund cannot be entertained unless the self assessment was modified under other relevant provisions of the Act. The relevant extracts from the above said Hon'ble Supreme Court's judgment were:

"44. The provisions under section 27 cannot be invoked in the absence of amendment or modification having been made in the bill of entry on the basis of which self assessment has been made. In other words, the order of self assessment is required to be followed unless modified before the claim for refund is entertained under Section 27. The refund proceedings are in the nature of execution for refunding amount. It is not assessment or re assessment proceedings at all.....

47. When we consider the overall effect of the provisions prior to amendment and post-amendment under Finance Act, 2011, we are of the opinion that the claim for refund cannot be entertained unless the order of assessment or self-assessment is modified in accordance with law by taking recourse to the appropriate proceedings and it would not be within the ken of Section 27 to set aside the order of self-

assessment and reassess the duty for making refund; and in case any person is aggrieved by any order which would include self assessment, he has to get the order modified under Section 128 or under other relevant provisions of the Act."

(viii) CESTAT, Chennai in decision dated 28.06.2023 in the case of M/s Tamil Nadu Generation in Customs Appeal No. 41713 of 2013 had also held that the refund claim was not maintainable in the absence of any challenge to assessment order. The relevant observations of the Tribunal were:

"13.1 It is the settled position of law that the right to appeal is available to an assessee as well as the Department, even against self-assessment; until and unless is modified and the duty thereafter "self-assessment" determined, no application would lie for refund of any duty from such self assessment since the refund authority cannot assume the role of an adjudicating / assessing authority."

(ix) The above observations of the Hon'ble Supreme Court and CESTAT Chennai clearly mandate that before applying for refund, the noticee needed to challenge the order of assessment/self-assessment. If noticee was aggrieved, then they could have got the said order modified under Section 128 or under other relevant provisions of the Customs Act. The noticee was at liberty to file an appeal before the Commissioner of Customs (Appeals) at the relevant time challenging the assessment/self- assessment, but they had not filed any appeal. It therefore, clearly implied that the Noticee had accepted such assessment/self-assessment mandating payment of IGST duty along with interest. Thus, assessment had attained finality and the instant refund claim was filed by them without following the due procedure and legal provisions which mandated challenging the assessment under Section 128 of the Customs Act, 1962. Therefore, the present refund claim had been sanctioned by Adjudicating Authority in clear violation of the norms set by the Hon'ble Supreme Court vide its judgment in the case of ITC Lid. (cited supra). Accordingly, the present OIO in case of M/s Vidya Wires Private Limited is not legal and valid.

(x) Further, it was also not under dispute that Hon'ble Supreme Court in the case of Union of India Cosmo Films Ltd reported as 2023 (72) GSTL 147 (SC) had held that where the Pre-import conditions were not complied with and therefore IGST was required to be paid by the petitioners. Therefore, in the case of M/s Vidya Wires Private Limited, the portion of demand of IGST duty was confirmed. The interest provisions for short paid duty in terms of Section 28AA of the Customs Act, shall equally apply to a case of determination of duty under Section 28 of the Customs Act, be it duty levied under Section 12 of Customs Act or IGST under Section 3(7) and 3(9) of the Tariff Act or any other provision thereof or any other law for the time being in force.

(xi) In the case of Union of India Versus Valecha Engineering Limited [2010 (249) E.L.T. 167 (Bom.)], the Hon'ble High Court of Bombay had considered the issue similar to the one involved in the present case and inter-alia held as follows:

"39. The law as now settled is that the charging Section for Customs Duty is Section 12 whereas the charging Section in so far as the Customs Tariff Act is Section 3. However, relevant for our discussion would be the Sections 3, 3A and their relevant sub-sections. Would a construction of these provisions, result in holding that interest be treated as having been incorporated under the provisions of the Customs

Tariff Act, 1975. The provision for interest as now settled is a part of the machinery provisions. It by itself is not penal in character, but is compensatory in nature. In other words, it recompenses the State on failure to pay duty at the rate of interest as determined by the Board. Two constructions flow. One the rule of strict construction it being a taxing statute and the other not a strict construction if it be part of the machinery provisions.

40. We may now refer to Section 28AA. Under Section 28AA interest becomes automatically payable on failure by the assessee to pay duty as assessed within the time as set out therein. Similarly, under Section 28AB on duty being ascertained as under Section 28 interest is payable by operation of law. In a case, therefore, where duty has been ascertained as due under the Customs Tariff Act, 1975 by the machinery under the provisions of the Customs Act if the provisions of Sections 3 and 3A are read in their proper context, then Section 28 would first be attracted. No interest will be payable under Section 28AB if the predicates of Section 28 are not satisfied. Therefore, in a case of non-payment of duty of the payment or erroneous refund even under the provisions of the Customs Tariff Act, 1975, Section 28 would be attracted and once duty is ascertained under Section 28 interest becomes payable under Section 28AB as the machinery provisions of the Customs Act are incorporated into the Customs Tariff Act and the provision for interest is part of the machinery provisions though at the same time Section 28AB is a substantive provision for payment for interest under the Customs Act. The rule of strict construction must be rejected. Interest is compensatory for failure to pay duty on the date due and payable. Therefore, once duty is determined considering the expression, the provisions of the Customs Act shall as far as may apply Section 28AB would be applicable. The amendment of the 18th April, 2006 only clarifies the position.

(xii) It can be inferred from above, that Section 28AA of the Customs Act, 1962, mandates payment of interest on delayed customs duty payments, and while it is not directly embedded in the Customs Tariff Act, 1975, its application to duties under the Customs Tariff Act is clarified through judicial interpretation in case of “**Union of India v. Valecha Engineering Limited [2010 (249) E.L.T. 167 (Bom.)]**”, wherein the Bombay High Court held that Section 12 of the Customs Act serves as the charging provision for customs duty, while Section 3 of the Customs Tariff Act governs duties like Countervailing Duty (CVD) and Special Additional Duty (SAD). The court clarified that interest under Section 28AA (and formerly Section 28AB) is a compensatory, not penal, machinery provision that automatically applies when duty assessed under Section 28 remains unpaid within the stipulated time. The court rejected a strict construction of taxing statutes for interest provisions, emphasizing that the machinery provisions of the Customs Act, including Sections 28 and 28AA, are incorporated into the Customs Tariff Act for duties assessed under Sections 3 and 3A. **Thus, it can be inferred from the above judgement of Hon’ble High Court that once IGST duty is determined under the section 3(7) of Customs Tariff Act, Section 28 triggers interest liability under Section 28AA, if payment is delayed.** The Adjudicating Authority's decision to sanction the refund in case of M/s Vidya Wires Private Limited, relying on the Bombay High Court's judgment in **Mahindra and Mahindra and also the CESTAT ruling in M/s Chiripal Industries**, is actually flawed. The Department's appeal against the Chiripal Industries decision remains pending before the High Court, thus reliance placed on the

decision of Ms/ Chiripal Industries was wrong and further the present case of M/s Vidya Wires Private Limited involved some distinguishable facts which were not involved in case of M/s. Mahindra & Mahindra Ltd. (supra). Accordingly, refund sanctioned by the Adjudicating Authority was not legal and proper.

(xiii) In the case of M/s. Texmaco Rail Engineering Limited Versus Commissioner of Customs (Port), Kolkata, as reported at 2024 (1) TMI 902 – CESTAT, Kolkata, wherein the appellant initially contested the leviability of interest. The appellant argued that the charging section for CVD was not Section 12 of the Customs Act but the appropriate sections of the Tariff Act and that the provisions of the Customs Act relating to interest were not borrowed under Section 3 of the Tariff Act. The Hon'ble CESTAT found that the provisions of the Customs Act, including those relating to interest, are applicable to the duty chargeable under Section 3 of the Tariff Act by virtue of Section 3(8) (the-then – now Section 3(12) of the Tariff Act. **The Tribunal noted that Section 28AA of the Customs Act, which mandates the payment of interest on short-paid duty, is applicable to cases where duty is determined under Section 28 of the Customs Act. The Tribunal also emphasized that interest is compensatory in nature and not penal, and its levy is automatic upon the determination of duty under Section 28 as briefed hereinunder:**

“Going, by the principle of liberal construction as applicable to cases of no ambiguity and especially so in taxation matters, not an iota of doubt would remain about the applicability of the provisions of the Customs Act, Rules and Regulations, to that of Section 3 of the Tariff Act. That being the stated position, interest for delayed payment of duty under Section 28AA of Customs Act is certainly payable in the facts and circumstances of the present appeal. It may be relevant to point out to a well settled rule of construction, that to ascertain the legislative intent, all the constituent part of the legal provisions are “to be taken together and each word, phrase or sentence is to be considered in the light of the general purpose and object of the Act itself.”

It is abundantly clear from the title and scope of Section 28AA of the Act, that interest is applicable on duty levied under Section 3 of the Tariff Act, as it is held to be a duty of Customs within the meaning of Section 2(15) of the Act and further reinforced by the non-obstante opening of the sub-section, that re-emphasised that interest is unquestionably leviable for the delayed payment of duty.

*Section 3 of the Tariff Act (including its subsection 8) interpreted on its own language or along with Section 28AA of Act are not ambiguous. The mischief, if any ought to be suppressed with the aid of internal tools like the non-obstante phraseology or the text and the head note of the sections, besides giving the words used in law their ordinary meaning. **The apex court in the case of Doypack Systems (Pvt.) Ltd. Vs. UOI, [1988 (2) TMI 61 - SUPREME COURT] observed that words used in the statute must prima facie, be given their ordinary meaning and where the grammatical construct is clear and manifest, without a doubt the said construction ought to prevail, but for strong and obvious reasons to the contrary.***

It can safely be concluded that interest provisions for short paid duty in terms of Section 28AA of the Customs Act, shall equally apply to a case of determination of duty under Section 28 of the Customs Act, be it duty levied under Section 12 of

Customs Act or Section 3(3) of the Tariff Act or any other provision thereof or any other law for the time being in force."

In view of Section 3 of the Tariff Act read with Section 12 of the Customs Act, the special additional duty is to be construed as Customs Duty and therefore in view of the provisions of the law, all the provisions of the Customs Act and Rules/Regulations made thereunder are squarely applicable to the issue at hand. Further, it is common knowledge that taxation does not concern principles of equity. If the appellants have failed in discharge of their statutory obligations or have been deficient thereto, consequences, advantages and disadvantages thereof shall follow. It is not open for the appellants to have the best of both ends.

(xiv) Therefore, it can be concluded from the above Judgement in Texmaco Rail Engineering Limited Versus Commissioner of Customs (Port), Kolkata, as reported at 2024 (1) TMI 902 – CESTAT, Kolkata, that the title and scope of Section 28AA of the Customs Act, interest was leviable on duty levied under Section 3 of the CT Act as it was held to be a duty of customs under Section 2(15) of the Customs Act and further reinforced by the non-obstante opening of Section 28AA(1) of the Customs Act. Thus, interest provisions under Section 28AA of the Customs Act shall equally apply to a case of determination of duty under Section 28 of the Customs Act – whether the said duty is levied under Section 12 of the Customs Act or under Section 3 of the CT Act or under any other provision/law for the time being in force. The Bombay High Court in case of Mahindra and Mahindra ruling shall have no bearing, implication or applicability to the facts of the present case of M/s Vidya Wires Private Limited. The Bombay High Court ruling is in respect of the ‘Settlement of a case’ (which is a shift from the usual process of adjudication, appeal, etc.). The Bombay High Court ruling is to be considered to be applicable to scenarios which were in existence in the said order (of Settlement Commission) which were under challenge. However, the applicability of the said order cannot be extended to normal scenarios.

(xv) Further, CESTAT, New Delhi in case of M/s. Mayur Uniquoters Limited & M/s. JLC Electromet Pvt. Ltd. versus Commissioner (Appeals), Central Excise & CGST, Jaipur, as reported at 2024 (8) TMI 1060 CESTAT NEW DELHI, Hon'ble Delhi Tribunal which is favour of Revenue, had held that IGST was chargeable on supplies in the course of imports under section 3 of the Customs Tariff Act read with section 5 of the IGST Act. Section 20 of IGST Act made some provisions of CGST Act applicable to IGST including the section 50 which makes interest payable. Thus, interest was payable on delayed payment of IGST where the supplies were made within India and the same applied to interest on delayed payment of IGST on imports. The Relevant extract of the judgment is as below:

“28. The last question to be answered by us if interest is payable on IGST which is paid late. The submission of the learned counsel for the appellant is that Bombay High Court held in Mahindra and Mahindra that no interest is chargeable on the additional duty of customs levied under section 3 of the Customs Tariff Act, 1975 and therefore no interest can be charged on the IGST. We find that this judgment was delivered in a matter where the SCNs were issued in 2004 and 2005 well before the GST was introduced in 2017. At that time, Additional duty of Customs was leviable under section 3 of the Customs Tariff Act, 1975. After the introduction of the GST in 2017, section 3 was completely re-written and instead of 'additional duty of customs' equivalent to the duties of excise, IGST at the same rate as leviable under IGST Act

became leviable when goods are imported. No judgment of any High Court or Supreme Court has been brought to our notice in which it is held that no interest is chargeable on delayed payment of IGST. Therefore, reliance on Mahindra and Mahindra is misplaced.

29. It also needs to be noted that the charge of IGST is not just under section 3 of the Customs Tariff Act but under this section read with section 5 of the IGST Act. Therefore, unlike in the case of customs duties, no rate of IGST is prescribed either in the schedules to the Customs Tariff Act or under any notification issued under the Customs Tariff Act. Section 3 of the Customs Tariff Act refers to the IGST payable under section 5 of the IGST Act. In other words, whatever is payable under the IGST Act on inter-state supplies within India is payable under section 3 of the Customs Tariff Act read with section 5 of the IGST Act if the supplies are in the course of importation.

30. The undisputed legal position is that if there is delayed payment of IGST under Section 5 of the IGST Act, interest is payable. Section 20 of IGST Act, 2017 made several provisions of the CGST Act applicable to IGST including section 50 of CGST Act, 2017 which provides for interest.

31. When interest is payable on delayed payment of IGST on inter-state supplies within India, the same bill also applies to delayed payment of IGST on imports. This is especially so since section 3 of the Customs Tariff Act makes IGST payable under IGST Act. We find no legal basis or reason to hold that the interest payable on delayed payment of IGST does not apply if such delayed payment is on supply in the course of imports.

2. To sum up:

- a) No refund can be sanctioned to an assessee based on the judgment passed by a Court in respect of some other assessee.*
- b) No refund can be sanctioned so as to modify the assessment including self-assessment.*
- c) Duties of customs- whether basic or additional- are levied on the act of importation or exportation. The power to levy Customs duties flows from Article 246 read with entry 83 of List I (Union List) of Seventh Schedule of the Constitution. They are credited under Major Budget Head 0037 and they form part of the divisible pool of taxes distributed between the Centre and State as per the recommendations of the Finance Commission.*
- d) IGST is a tax on the supply of goods- the power to levy IGST flows from Article 246A of the Constitution. IGST is credited to Major budget head 0008 and it gets apportioned between the centre and states as decided by Parliament on the recommendations of the GST council.*
- e) What is levied on supply in the course of importation is IGST and it is not a duty or an additional duty of Customs; the judgment in Mahindra and Mahindra pertains to*

additional duty of customs in pre-GST regime.

f) IGST is chargeable on supplies in the course of imports under section 3 of the Customs Tariff Act read with section 5 of the IGST Act. Section 20 of the IGST Act made some provisions of CGST Act applicable to IGST including the section 50 which makes interest payable. Thus, interest is payable on delayed payment of IGST where the supplies are made within India and the same applies to interest on delayed payment of IGST on imports.

g) Thus, the appellants had correctly paid the interest on delayed payments of IGST and both the lower authorities were correct in rejecting the claim of refund.”

(xvi) Thus, it can be concluded from the above, that CESTAT Delhi Tribunal in its decision in the case of Mayur Uniquoters Ltd. and JLC Electromet Pvt Ltd. v. CCE [2024 (8) TMI 1060 - CESTAT NEW DELHI], which has held that the ratio set out in the decision of Mahindra and Mahindra is not applicable to demand of differential IGST under Section 3(7) of CTA. In the Mayur Uniquotes case, the assessee had undertaken the imports during the period when pre-import condition was in existence (13 October 2017 – 9 January 2019). Accordingly, the assessee availed the benefit of Notification No. 18/2015-Cus dated 1 April 2015, as amended by Notification No. 79/2017-Cus dated 13 October 2017. Later, upon realising that assessee had failed to comply with pre-import condition decided to pay the IGST along with interest, similar is the situation in case of M/s Vidya Wires Private Limited. The court differentiated IGST from CVD and held that while BCD, CVD, SAD and cesses are part of the Customs duties, IGST is part of the GST and not part of the Customs duties. The Tribunal mentioned that when interest is payable on delayed payment of IGST on inter-state supplies within India, interest will also be payable on delayed payment of IGST on imports. It further held that while the taxable event for levy of Customs duties levied either under the Customs Act or under the CTA is the act of importation or exportation, the taxable event for levy of IGST is the inter-state supply of goods and services, including supply in the course of importation. Thus, the court held that interest is payable on delayed payment of IGST payable at the time import, even though Section 3(12) of the CTA does not provide for it.

(xvii) The refund sanctioned to M/s Vidya Wires Private Limited., by relying on the judgment of the Bombay High Court in the case of Mahindra & Mahindra is not legal and proper. The noticee themselves have neither contested their own assessments nor have they been modified. In this matter, the law laid down by the Supreme Court in Mafatlal Industries resolves the question that whether one assessee claim refund on the basis of a decision in the case of another assessee. The case laws answers that the refunds are in the nature of execution proceedings and do not determine the mutual rights and liabilities between the assessee and the Revenue. They are simple cases refunding the money which is due to the assessee as per the assessment. The counterpart of this is the recovery of arrears by the department under section 142 of the Customs Act or similar provisions in other laws. Neither can the assessee claim refund nor can the department recover any amounts as arrears beyond the assessed tax or duty. If a judgment is delivered by a court in a case with respect to an assessee, it does not automatically increase or reduce the liabilities of every other assessee who is similarly placed. Otherwise, it will create utter chaos and confusion. For instance, if the classification of a good is decided in an appeal under a particular heading in the Customs Tariff, every importer of identical goods in the country

cannot seek consequential refund of duty. Conversely, if the classification of the good in the appeal increases duty, the department cannot automatically recover differential duties from all importers. Therefore, it can be concluded that in case of delay in payment of IGST levied under section 3(7) of Custom Tariff Act and the interest can be charged for the period of delay at the rate fixed under Section 28AA of the Customs Act, 1962 and thus the provisions of Section 28AA of the Customs Act, 1962 pertaining to interest on delayed payment of duty are applicable on delayed payment of IGST chargeable under Section 3(7) of the Customs Tariff Act, 1975 as per Section 3(12) of Custom Tariff Act.

(xviii) The noticee has accepted such assessment/self-assessment mandating payment of interest amount along with IGST in terms of Circular No.16/2023-Cus. dated 07.06.2023. Such order of assessment/self-assessment, if he was aggrieved could have got the said order modified under Section 128 or under other relevant provisions of the Customs Act. The noticee was at liberty to file an appeal before the Commissioner of Customs (Appeals) at the relevant time challenging the assessment/self- assessment, but they have not filed any appeal. Therefore, adjudicating Authority sanctioning refund of interest of Rs. 2,45,94,071/- voluntary paid by the noticee, without modifying the order of assessment is gross violation to the norms set by the Hon'ble Supreme Court vide its judgment in the case of ITC Limited Vs. Commissioner of Central Excise, Kolkata-IV reported in 2019 (368) E.L.T. 216 (S.C.).

5. Whereas, the Appeal filed by the department against Order-In-Original No. 22/AC/CHH/REFUND/2025-26 dated 02.06.2025 before the Commissioner of Customs (Appeals), Ahmedabad is pending for final decision. The department has also filed an appeal before the Hon'ble High Court of Gujarat against Final Order No. A/11628-11630/2024 dated 23.07.2024 passed by the Hon'ble CESTAT, Ahmedabad, which is also pending for decision. Therefore, the refund of Rs. 2,45,94,071/- sanctioned vide OIO No. 22/AC/CHH/REFUND/2025-26 dated 02.06.2025 by the Assistant Commissioner of Customs, Hazira, appears to be erroneously refunded.

6. Whereas, as per provisions of Section 28 of the Customs Act, 1962, where any duty has not been levied or not paid or short-levied or short-paid or erroneously refunded, or any interest payable has not been paid, part-paid or erroneously refunded, for any reason other than the reasons of collusion or any wilful mis-statement or suppression of facts, the proper officer shall, within two years from the relevant date, serve notice on the person chargeable with the duty or interest which has not been so levied or paid or which has been short-levied or short-paid or to whom the refund has erroneously been made, requiring him to show cause why he should not pay the amount specified in the notice. Further, under the Explanation 1 provided for the purposes of this section, "relevant date" means the date of refund in a case where duty or interest has been erroneously refunded.

7. Further, as per Section 28AA. Interest on delayed payment of duty. –

(1) Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provision of this Act or the rules made thereunder, the person, who is liable to pay duty in accordance with the provisions of section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section (2), whether such payment is made voluntarily or after determination of the duty under that section.

(2) Interest at such rate not below ten per cent. and not exceeding thirty-six per cent. per annum, as the Central Government may, by notification in the Official Gazette, fix, shall be paid by the person liable to pay duty in terms of section 28 and such interest shall be calculated from the first day of the month succeeding the month in which the duty ought to have been paid or from the date of such erroneous refund, as the case may be, up to the date of payment of such duty.

8. Pre-notice consultation hearing in terms of the provisions of Section 28(1)(a) read with Pre-Notice Consultation Regulations, 2018 was given to the Noticee on 20.11.2025 in virtual mode. However, nobody attended the hearing. Therefore, it is presumed that the Noticee does not have anything to submit in the matter.

9. After careful consideration of the issue involved, I find that the refund of Rs. 2,45,94,071/- (Rupees Two Crore, Forty Five Lakh, Ninety Four Thousand and Seventy one Only) has been sanctioned vide Order-In-Original No. 22/AC/CHH/REFUND/2025-26 dated 02.06.2025 consequent to Final Order No. A/11628-11630/2024 dated 23.07.2024 passed by the Hon'ble CESTAT, Ahmedabad. Since the Department has filed an appeal before the Commissioner of Customs (Appeals), Ahmedabad against Order-In-Original No. 22/AC/CHH/REFUND/2025-26 dated 02.06.2025 and before the Hon'ble High Court of Gujarat against Final Order No. A/11628-11630/2024 dated 23.07.2024, present show cause notice is required to be issued against the refund sanctioned vide Order-In-Original No. 22/AC/CHH/REFUND/2025-26 dated 02.06.2025 to safeguard the Government Revenue.

10. Now, therefore, M/s Vidya Wires Pvt. Ltd., [IEC No.3495003843/2], Plot No. 8/1-2, GIDC Main Road, Vithal Udyognagar, Dist. Anand, Gujarat-388121 is hereby called upon to show cause to the Principal Commissioner of Customs, Ahmedabad having his Office at 1st floor, Customs House, Ashram Road, Near Akashwani Bhavan, Navrangpura, Ahmedabad as to why the refund amount of Rs. 2,45,94,071/- (Rupees Two Crore, Forty Five Lakh, Ninety Four Thousand and Seventy one Only) sanctioned vide Order-In-Original No. 22/AC/CHH/REFUND/2025-26 dated 02.06.2025 should not be demanded and recovered under Section 28 (1) of the Customs Act 1962 along with interest under Section 28AA of the Customs Act 1962 on the above said grounds.

11. M/s Vidya Wires Pvt. Ltd., [IEC No.3495003843/2] Plot No. 8/ 1-2, GIDC Main Road, Vithal Udyognagar, Dist. Anand, Gujarat-388121, is required to file their reply within thirty days from the receipt of this Notice. They are also directed to produce at the time of showing cause, all the evidences upon which they intend to rely in support of their defence. They are further required to indicate in their written reply as to whether they desire to be heard in person before the case is adjudicated.

12. If no reply is received from them within 30 (Thirty) days of the receipt of this Notice or if they do not appear before the Adjudicating Authority when the case is posted for hearing, the case will be decided ex-parte, on the basis of available records without any further reference to them.

