सीमाशुल्क (अपील) आयुक्तका कार्यालय, अहमदाबाद
OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD
चौथी मंज़िल 4th Floor, हडको बिल्डिंग HUDCO Building, ईश्वर भुवन रोड़ Ishwar Bhuvan Road,
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009.
दूरभाष क्रमांक Tel. No. 079-26589281
DIN-20260371MN0000111486

क	फ़ाइल संख्या FILE NO.	(1) F.No. S/49-59/CUS/AHD/MAY/2025-26 (2) F.No. S/49-60/CUS/AHD/MAY/2025-26
ख	अपीलआदेश संख्या ORDER-IN-APPEAL No. (सीमाशुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	AHD-CUSTM-000-APP-694 & 695-25-26
ग	पारितकर्ता PASSED BY	SHRI AMIT GUPTA Commissioner of Customs (Appeals), AHMEDABAD
घ	दिनांक DATE	16.03.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER - IN - ORIGINAL NO.	(1) & (2) O.I.O. No. 06/BPS/ADC-SRT/2021-22 dated 09.06.2021 passed by the Additional Commissioner of Customs (in-charge ICD-Sachin), Surat.
	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	16.03.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	(1) M/s. Shree Sai Ram Textiles, 501, 5th floor, International Business Centre (IBC), Dumas Road, Surat – 395007. (2) Shri. Hirenbhai Kantibhai Kheni, Partner, M/s. Shree Sai Ram Textiles, 501, 5th floor, International Business Centre (IBC), Dumas Road, Surat – 395007.

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 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 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 (यथासंशोधित) में निर्धारित फीस जोअन्य रसीद,फीस,दण्ड,जब्तीऔर विविध मदों के शीर्षके अधीन आता है में रु. 200/-(रूपए दो सौ मात्र)या रु.1000/-(रूपए एक हज़ार मात्र),जैसा भी मामला हो,से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दोप्रतियां. यदि शुल्क,मांगा गया ब्याज,लगाया गया दंड की राशिऔर 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 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 अपीलियअधिकरण, 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**	
(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 के10 % 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

1. M/s. Shree Sai Ram Textiles, 501, 5th floor, International Business Centre (IBC), Dumas Road, Surat – 395007 (hereinafter referred as 'the appellant-1') and Shri. Hirenbhai Kantibhai Kheni, Partner of M/s. Shree Sai Ram Textiles (hereinafter referred as 'the appellant-2') have filed the present appeals under Section 128 of the Customs Act, 1962, against Order-In-Original No. 06/BPS/ADC-SRT/2021-22 dated 09.06.2021 (hereinafter referred to as 'the impugned order') passed by the Additional Commissioner of Customs (in-charge ICD Sachin), Surat (hereinafter referred to as 'the adjudicating authority').

2. Facts of the case, in brief, are that the appellant-1 has imported 10 set of Computerised Embroidery Machinery under EPCG Licence No. 5230007211 dated 06.07.2010 by saving Customs duty of Rs. 10,25,569/- under cover of six Bills of Entry filed with Customs, ICD-Sachin, during the period of 22.07.2010 to 11.08.2010. The appellant-1 had also submitted Bond and Bank Guarantee, as per the prescribed procedure. It appeared that the appellant-1 failed to fulfill the export obligation within the prescribed period and therefore, a Show Cause Notice bearing F.No. VIII/10-21/O&A/ADC/ Sairam/2020 dated 14.07.2020 was issued to the appellant-1 and the appellant-2 (for penalty). The said SCN has been adjudicated vide the impugned order.

3. In the impugned order, it has been observed, inter alia, that the appellant-1 has not fulfilled the export obligation and therefore, the conditions stipulated under Notification No. 64/2008-Cus dated 09.05.2008 as well as conditions of the Bond submitted by them had not been fulfilled. So, the adjudicating authority has passed following order (gist):

- Upheld the demand of Customs duty amounting to Rs. 10,25,569/- with interest and ordered to recover the same in terms of Notification No. 103/2009 dated 11.09.2009 read with conditions of Bond in terms of Section 143 by enforcing the Bond. Also ordered to appropriate Bank Guarantee dated 19.07.2010 of Rs. 1,70,000/- issued by Allahabad Bank, which has been encashed and deposited in Govt. account vide T.R.6 Challan dated 18.03.2020.

- Ordered to confiscate imported capital goods under Section 110(o) read with conditions of Bond executed in terms of Section 143 read with Notification No. 103/2009-Cus dated 11.09.2009. As the goods are not available for confiscation, imposed redemption fine of Rs. 5,00,000/- under Section 125 of the Customs Act, 1962.

- Denied the benefit of concessional rate of duty @3% for EPCG Scheme under Notification No. 103/2009-Cus dated 11.09.2009 for the imported goods.

- Imposed a penalty of Rs. 2,00,000/- on the appellant-1 in terms of Section 112(a) of the Customs Act, 1962.

- Imposed a penalty of Rs. 1,00,000/- on the appellant-1 in terms of Section 117 of the Customs Act, 1962.

- Imposed a penalty of Rs. 1,00,000/- on the appellant-2 in terms of Section 112(a) of the Customs Act, 1962.

4. Being aggrieved, the appellant-1 and the appellant-2 have filed the present appeals.

4.1. The appellant-1 submitted that the impugned order has been passed without following the principles of natural justice. That they had not received Show Causes Notice, Personal Hearing Letters and the impugned Order-In-Original; that they were unaware about issuance of SCN, PH letters and OIO. That they received a letter dated 06.03.2025 from Superintendent, ICD-Sachin, in which a photocopy of the O.I.O. was enclosed and the appellant was asked to either submit a copy of the appeal, if filed, or pay the Government dues.

4.2. The appellant-1 further submitted that they have fulfilled the export obligation before expiry of prescribed period; that they had already exported goods through third party export against the said License and subsequently BRC were issued. That the DGFT authorities issued Redemption Letter vide letter F.No. 52/21/165/00934/AM21/ dated 04.08.2022 and thus granted Export Obligation Discharge Certificate ('EODC') in this regard (copy submitted). That the export obligation stipulated in the license has been met in full in proportion to duty amount utilized by them. The appellant-1 further submitted that the present proceedings are in violation of CBEC Circular No. 16/2017-Cus dated 02.05.2017. After reproducing contents of the said Circular, the appellant-1 has requested to set aside the impugned order. The appellant-1 further submitted that the Department already made encashment of the Bank Guarantee way before issuance of Order-in-Original, which is not proper. The appellant also contested the order towards confiscation of goods when the goods are not available; and contested order towards imposition of penalties.

4.3. The appellant-2 submitted inter alia that neither the Show Causes Notice nor the impugned Order-In-Original was served to / received by the appellants and as such they were not aware of any such SCN or OIO. That they received a letter dated 06.03.2025 from Superintendent, ICD-Sachin, in which a photocopy of the O.I.O. was enclosed and the appellant was asked to either submit a copy of the appeal, if filed, or pay the Government dues.

4.4. The appellant-2 further submitted that the impugned order has been passed without following the principles of natural justice. Without prejudice to above, he further submitted that in the impugned order, it is not demonstrated as to how he had reasons to believe that the goods dealt by him were liable for confiscation. He further submitted that when the export obligation has already been fulfilled and DGFT has issued a Redemption Letter F.No. 52/21/165/00934/AM21/ dated 04.08.2022, imposition of penalty upon him does not survive.

ADMISSION OF APPEALS

5. One set of the both appeal memorandums have been forwarded to the adjudicating authority for comments vide this office letters dated 04.07.2025, but no reply thereof has been received. So, I proceed to decide the appeal on the basis of documents submitted by the appellants.

6. The appellant-1 has submitted a copy of the T.R.-6 Challan No. 82/19-20 dated 18/23.03.2020 for Rs.1,70,000/- through which the amount towards encashment of Bank Guarantee dated 19.07.2010 has been deposited in Govt. Account. In the Form No. C.A.-1 it has been mentioned to consider this amount as payment of pre-deposit. The appellant-2 has submitted a copy of the T.R.-6

Challan No. 18/25-26 dated 01/07.05.2025 for Rs. 7,500/- as pre-deposit for filing appeal against the impugned order.

7. In the both Form No. C.A.-1, the appellants have shown the date of communication of the impugned order dated 09.06.2021, as "08.03.2025". Whereas, both appeals have been received in this office on 09.05.2025. Thus, both appeals have been filed after 62 days from the declared date of communication of order. Both appellants have filed application for condonation of delay of 02 days in filing appeal under Section 128(1) of the Customs Act, 1962.

8. The appellants have submitted a copy of their letter dated 15.05.2024 addressed to the Deputy Commissioner of Customs, ICD-Sachin, in which they have mentioned, inter alia, that they had completed export obligation and submitted required documents for release of Bank Guarantee and Bond; that from their Bank they came to know that Customs Department has encashed the Bank Guarantee. In the said letter it has been further mentioned that they had not received the Order-In-Original, as their office address has been changed. So, the appellant-1 had requested to re-despatch the Order at their new address. In reply, the Superintendent of Customs, ICD-Sachin, has issued a letter F.No. ICD/Sachin/466/2010-11 dated 06.03.2025 stating inter alia that the SCN and OIO has been served as per Section 153 of the Customs Act, 1962, on the available addresses; that all documents have been returned undelivered; that however, Xerox copy of the Order-in-Original No. 06/BPS/ADC-SRT/2021-22 dated 09.06.2021 has been provided on new address.

9. In view of the above correspondence, it appears that prior to the date 15.05.2024, the appellants had not informed their new address to Customs Department with reference to Bond submitted by them for import under EGCG Scheme. So, Customs Department had sent Show Cause Notice and Order-in-Original to the old address, which was on record. As mentioned in the said letter dated 06.03.2025 issued by Superintendent of Customs, ICD-Sachin, all documents sent by Customs have been returned undelivered; that the appellant had informed the change of address vide letter dated 15.05.2024 and therefore, Customs office situated at ICD-Sachin has provided Xerox copy of the impugned Order vide letter F.No. ICD/Sachin/466/2010-11 dated 06.03.2025 to the appellant on new address. The appellants have also submitted an envelope with postal

tracking of the communication, which show that it has been received by the appellant on 08.03.2025.

10. In view of the above position, I find that the Order-in-Original No. 06/BPS/ADC-SRT/2021-22 dated 09.06.2021 was not served properly to the appellant inasmuch as it was returned undelivered. The adjudicating authority has not reported the mode of service in any other manner and the date on which the impugned order was served to the appellant under the provisions of Section 153 of the Customs Act, 1962. In absence of any evidence regarding proper service of the impugned order dated 09.06.2021 and the date of service, I accept the contention of the appellants to the effect that the impugned order has been served to them on 08.03.2025, when they have received photocopy of the same vide letter dated 06.03.2025.

11. As the impugned order has been served to the appellants on 08.03.2025 and both appeals have been presented in this office on 09.05.2025, there is a delay of only 02 days, beyond the prescribed period of 60 days, for filing of appeals. In exercise of power given under the Proviso to Section 128(1) of the Customs Act, 1962, I condone the delay of 02 days in filing both appeals and admit the appeals, which are being taken up for disposal.

PERSONAL HEARING

12. Personal Hearings in this matter was fixed on 21.01.2026. The appellants, from the email id *rupeshtrivedi18@gmail.com*, sought adjournment. Personal Hearing in respect of both appeals was held in virtual mode on 10.03.2026, which has been attended by Shri. Rakshit V. Dave, Advocate, on behalf of the appellants. He reiterated the submissions made at the time of filing of appeals.

DISCUSSION AND FINDINGS

13. I have carefully gone through the written as well as oral submissions made by or on behalf of the appellant-1 viz. M/s. Shree Sai Ram Textiles and the appellant-2 viz. Shri. Hirenbhai Kantibhai Kheni, Partner of M/s. Shree Sai Ram Textiles, Surat. The issue involved in the appeal is regarding sustainability of demand of duty, interest, penalties and redemption fine on account of non-submission of Redemption Certificate / Export Obligation Discharge Certificate ('EODC') towards fulfillment of export obligation under EPCG Scheme.

14. I find that in the appeal memorandum, the appellants have submitted a copy of the EODC/Bond Waiver Letter issued from F.No. 52/21/021/0324/AM21 dated 04.08.2022 by the office of the Joint DGFT, Surat. As per the said letter, export obligation in respect of the EPCG Authorisation No. 5230007211 dated 06.07.2010 has been met in full in proportion to duty amount utilized by the appellant; and consequently, Export Obligation has been discharged against the said Authorisation in terms of Para 5.13 of H.B. of procedure.

15. In this regard, I observe that the said EODC/Bond Waiver Letter dated 04.08.2022 has been issued after passing of the impugned Order-In-Original No. 06/BPS/ADC-SRT/2021-22 dated 09.06.2021. So, in the impugned order, there is no discussion about issuance of EODC by the office of the Jt. DGFT, Surat. The adjudicating authority had no opportunity to examine the correctness and applicability of the said letter dated 04.08.2022 to the present case. The impugned order has been passed without considering the EODC letter issued by the office of the Jt. DGFT, Surat.

16. As regards observance of principles of natural justice before passing the impugned Order-in-Original, it has been mentioned in Para 13 of the said O.I.O. that the noticee did not file any defence reply; that they were provided several opportunities for personal hearing, but the letters sent to the address available on record had been returned undelivered by the postal authorities and the said letters were served by affixing the same on the notice board of Customs Division, Surat. In this regard, I observe that provisions of Section 153 of the Customs Act, 1962, regarding service of Show Cause Notice, Order-in-Original and letters towards Personal Hearing have not been properly followed in these matters.

17. Service by affixing copy of the communication on notice board, as mentioned in Section 153(e) should be done as a last recourse, when the communication cannot be served as per clauses (a), (b), (c), (ca) and (d) of Section 153. Further, in this case, the communications were not affixed in some conspicuous place at the last known place of business or residence of the person to whom they have been issued, as mentioned in the first half of clause 153(e); but they have been affixed on notice board as mentioned in the second half of Section 153(e), which is not proper. As mentioned in Section 153(e) itself, when service

of communication by affixing it in some conspicuous place at the last known place of business or residence is not practicable for any reason, then, it can be served by affixing copy on the notice board of the office or uploading on the official website, if any. In the case on hand, it is nowhere mentioned that it was not practicable to serve the SCN and communications towards personal hearing by affixing on the last known place of business or residence. Therefore, I am of the view that service of the communications by affixing on notice board in this case is not proper and therefore, principles of natural justice have not been properly observed before passing the impugned order.

18. Under this situation, I am of the view that remitting the cases for passing fresh order after considering the submission of appellants, becomes sine qua non to meet the ends of justice. Accordingly, the cases are required to be remanded back in terms of clause (b) of sub-section (3) of Section 128A of the Customs Act 1962, for passing fresh order by following the principal of natural justice.

19. In view of the above discussion, the both matters are remanded to the adjudicating authority for passing fresh order after considering the documents regarding fulfilment of export obligation, which are to be submitted by the appellants to the adjudicating authority i.e. the Additional Commissioner of Customs, Surat, as well as to the Assistant Commissioner of Customs, ICD-Sachin, Surat, within a period of 15 days from the date of receipt of this order. The appellants shall mention their new address, contact number and email id in their future communications. Contact details of the Advocate/Consultant appointed by the appellants, if any, shall also be given to the adjudicating authority. After receipt of these documents, the adjudicating authority shall pass de novo adjudication order in this matter by following principles of natural justice.

20. As regards powers of Commissioner (Appeals) to remand cases, I rely upon the judgment of Hon'ble High Court of Gujarat in case of Medico Labs – 2004 (173) ELT 117 (Guj.), judgment of Hon'ble Bombay High Court in case of Ganesh Benzoplast Ltd. [2020 (374) E.L.T. 552 (Bom.)] and orders of Hon'ble Tribunal in case of Prem Steels P. Ltd. [2012-TIOL-1317-CESTAT-DEL] and Hawkins Cookers Ltd. [2012 (284) E.L.T. 677 (Tri. – Del)], wherein it has been held that Commissioner (Appeals) has power to remand the case under Section 35A(3) of the Central Excise Act, 1944 and Section 128A(3) of the Customs Act, 1962.

Further, these appeals fall under situation covered by Section 128A(3)(b)(i) of the Customs Act, 1962, which state that when an order or decision has been passed without following the principles of natural justice, the Commissioner (Appeals) may refer the matter back to the adjudicating authority with directions for fresh adjudication or decision.

21. In view of the above facts, discussion and findings, I pass the following order:

ORDER

21.1. I set aside the Order-In-Original No. 06/BPS/ADC-SRT/2021-22 dated 09.06.2021 and remand both matters for de-novo adjudication to the adjudicating authority, i.e. the Additional Commissioner of Customs (in-charge: ICD-Sachin), Surat.

21.2. I direct the appealant-1, viz. M/s. Shree Sai Ram Textiles, and the appellant-2, viz. Shri. Hirenbhai Kantibhai Kheni, to submit copies of EODC and all other relevant documents to the office of the adjudicating authority and also to the office of the Assistant Commissioner of Customs, ICD-Sachin, within a period of 15 days from the date of receipt of this order, which shall be considered by the adjudicating authority before passing de-novo adjudication order.

21.3. The appeals filed by M/s. Shree Sai Ram Textiles and Shri. Hirenbhai Kantibhai Kheni, are allowed by remand without expressing any view on merits.

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

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

F.No. S/49-59/CUS/AHD/MAY/2025-26
S/49-60/CUS/AHD/MAY/2025-26 6277

Date: 16.03.2026

By Speed Post (As per Section 153(1)(b) of the Customs Act, 1962)

To

(1) M/s. Shree Sai Ram Textiles,
501, 5th floor, International Business Centre (IBC),
Dumas Road, Surat – 395007.

(2) Shri. Hirenbhai Kantibhai Kheni, Partner,
M/s. Shree Sai Ram Textiles,
501, 5th floor, International Business Centre (IBC),
Dumas Road, Surat – 395007.

Copy to: By email only

1. The Chief Commissioner of Customs, Custom House, Ahmedabad.
   (email: ccoahm-guj@nic.in)

2. The Principal Commissioner of Customs, Custom House, Ahmedabad.
   (email: cus-ahmd-guj@nic.in rra-customsahd@gov.in)

3. The Additional Commissioner of Customs (in-charge: ICD-Sachin), Surat,
   Custom House, Magdalla Port, 4th Floor, @9292 Building, Near Metro Mall,
   Vesu VIP Road, Althan, Surat-395017.
   (email: icd-sachin@gov.in adjcus-surat@gov.in).

4. The Deputy/Assistant Commissioner of Customs, ICD-Sachin,
   Module-II, Diamond Park, Near Sachin Railway Station, Sachin, Surat – 394230.
   (email: icd-sachin@gov.in)

5. Shri. Rakshit Dave, Advocate, Surat.
   (email: rdavetax@gmail.com)

6. Guard File.

आयुक्त (अपील), सीमा शुल्क, अहमदाबाद

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