सत्यमेव जयते

सीमाशुल्क(अपील) आयुक्तकाकार्यालय,

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS),अहमदाबाद AHMEDABAD,

चौथी मंज़िल 4th Floor, हडकोभवनHUDCO Bhavan, ईश्वर भुवन रोड़ IshwarBhuvan Road,

नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009

दूरभाषक्रमांक Tel. No. 079-26589281

DIN - 20251271MN000011691A

क	फ़ाइलसंख्या FILE NO.	S/49-173/CUS/AHD/25-26
ख	अपीलआदेशसंख्या ORDER-IN-APPEAL NO. (सीमाशुल्कअधिनियम, 1962 कीधारा 128ककेअंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962) :	AHD-CUSTM-000-APP-482-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	19.12.2025
ङ	उदभूतअपीलआदेशकीसं. वदिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	ITC Case No. 2883, dated 08.07.2025
च	अपीलआदेशजारीकरनेकीदिनांक ORDER-IN-APPEAL ISSUED ON:	19.12.2025
छ	अपीलकर्ताकानामवपता NAME AND ADDRESS OF THE APPELLANT:	Shri Rajendra Singh Rathore, Resi-21/28, Ponnapa, chetty Street, 3rd floor, Park Town, Chennai-600003.

1.	**यहप्रतिउसव्यक्तिकेनिजीउपयोगकेलिएमुफ्तमेंदीजातीहैजिनकेनामयहजारीकियागयाहै.**
	This copy is granted free of cost for the private use of the person to whom it is issued.
2.	**सीमाशुल्कअधिनियम 1962 कीधारा 129 डीडी (1) (यथासंशोधित) केअधीननिम्नलिखितश्रेणियोंकेमामलोंकेसम्बन्धमेंकोईव्यक्तिइसआदेशसेअपनेकोआहतमहसूसकरताहोतोइसआदेशकीप्राप्तिकीतारीखसे 3 महीनेकेअंदरअपरसचिव/संयुक्तसचिव**

	(आवेदनसंशोधन) ,वित्तमंत्रालय, (राजस्वविभाग) संसदमार्ग,नईदिल्लीकोपुनरीक्षणआवेदनप्रस्तुतकरसकतेहै.
	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.
	निम्नलिखितसम्बन्धितआदेश/Order relating to :
(क)	बैगेज़केरूपमेंआयातितकोईमाल.
(a)	any goods imported on baggage.
(ख)	भारतमेंआयातकरनेहेतुकिसीवाहनमेंलादागयालेकिनभारतमेंउनकेगन्तव्यस्थानपरउतारेनगएमालयाउसगन्तव्य स्थानपरउतारेजानेकेलिएअपेक्षितमालउतारेनजानेपरयाउसगन्तव्यस्थानपरउतारेगएमालकीमात्रामेंअपेक्षितमालसे कमीहो.
(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)	सीमाशुल्कअधिनियम, 1962 केअध्यायX तथाउसकेअधीनबनाएगएनियमोंकेतहतशुल्कवापसीकीअदायगी.
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
3.	पुनरीक्षणआवेदनपत्रसंगतनियमावलीमेंविनिर्दिष्टप्रारूपमेंप्रस्तुतकरनाहोगाजिसकेअन्तर्गतउसकीजांचकीजाएगी औरउसकेसाथनिम्नलिखितकागजातसंलग्नहोनेचाहिए :
	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)	कोर्टफीएक्ट,1870केमदसं.6 अनुसूची 1 केअधीननिर्धारितकिएगएअनुसारइसआदेशकी 4 प्रतियां,जिसकीएकप्रतिमेंपचासपैसेकीन्यायालयशुल्कटिकटलगाहोनाचाहिए.
(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)	सम्बद्धदस्तावेज़ोंकेअलावासाथमूलआदेशकी 4 प्रतियां,यदिहो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षणकेलिएआवेदनकी 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षणआवेदनदायरकरनेकेलिएसीमाशुल्कअधिनियम, 1962 (यथासंशोधित) मेंनिर्धारितफीसजोअन्यरसीद,फीस,दण्ड,जब्तीऔरविविधमदोंकेशीर्षकेअधीनआताहैमेंरु. 200/- (रूपएदोसौमात्र)यारु.1000/-(रूपएएकहज़ारमात्र),जैसाभीमामलाहो,सेसम्बन्धितभुगतानकेप्रमाणिकचलानटी.आर.6 कीदोप्रतियां. यदिशुल्क,मांगागयाब्याज,लगायागयादंडकीराशिऔररूपएएकलाखयाउससेकमहोतोऐसेफीसकेरूपमेंरु.200/- औरयदिएकलाखसेअधिकहोतोफीसकेरूपमेंरु.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.	मदसं. 2 केअधीनसूचितमामलोंकेअलावाअन्यमामलोंकेसम्बंधमेंयदिकोईव्यक्तिइसआदेशसेआहतमहसूसकरताहोतोवेसीमाशुल्कअधिनियम 1962 कीधारा 129 ए (1) केअधीनफॉर्मसी.ए.-3 मेंसीमाशुल्क,केन्द्रीयउत्पादशुल्कऔरसेवाकरअपीलअधिकरणकेसमक्षनिम्नलिखितपतेपरअपीलकरसकतेहैं
	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, केंद्रीयउत्पादशुल्कवसेवाकरअपीलियअधिकरण,पश्चिमीक्षेत्रीयपीठ	**Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench**

	दूसरीमंज़िल,बहुमालीभवन,निकटगिरधरनगरपुल,असारवा,अहमदाबाद-380016	2nd Floor, BahumaliBhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	**सीमाशुल्कअधिनियम, 1962 कीधारा 129 ए (6) केअधीन,सीमाशुल्कअधिनियम, 1962 कीधारा 129 ए(1)केअधीनअपीलकेसाथनिम्नलिखितशुल्कसंलग्नहोनेचाहिए-**	
	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)	**अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपाँचलाखरूपएयाउससेकमहोतोएकहज़ाररुपए.**	
(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)	**अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपाँचलाखरूपएसेअधिकहोलेकिनरुपयेपचासलाखसेअधिकनहोतो;पांचहज़ाररुपए**	
(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)	**अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपचासलाखरूपएसेअधिकहोतो;दसहज़ाररुपए.**	
(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)	इसआदेशकेविरुद्धअधिकरणकेसामने,मांगेगएशुल्कके 10% अदाकरनेपर,जहांशुल्कयाशुल्कएवंदंडविवादमेंहैं,यादंडके 10%अदाकरनेपर,जहांकेवलदंडविवादमेंहै,अपीलरखाजाएगा।	
(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.	**उक्तअधिनियमकीधारा 129 (ए) केअन्तर्गतअपीलप्राधिकरणकेसमक्षदायरप्रत्येकआवेदनपत्र- (क) रोकआदेशकेलिएयागलतियोंकोसुधारनेकेलिएयाकिसीअन्यप्रयोजनकेलिएकिएगएअपील : - अथवा (ख) अपीलयाआवेदनपत्रकाप्रत्यावर्तनकेलिएदायरआवेदनकेसाथरुपयेपाँचसौकाशुल्कभीसंलग्नहोनेचाहिए.**	
	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.	

Shri Rajendra Singh Rathore, Resi-21/28, Ponnapa, chetty Street, 3rd floor, Park Town, Chennai-600003 (hereinafter referred to as "the appellant") has filed the present appeal in terms of Section 128 of the Customs Act, 1962 against ITC Case No. 2883, dated 08.07.2025 (hereinafter referred to as "the impugned order") passed by the Assistant Commissioner, SVP International Airport, Ahmedabad (hereinafter referred to as "the adjudicating authority").

2. Briefly stated, facts of the case are that the baggage of the appellant, who had arrived from Dubai by Indigo Flight No SG 16, on 08.07.2025, at SVP International Airport, Ahmedabad, were examined by the Customs Officers which resulted in recovery of 50 pieces of Mobile Accessories totally valued at Rs 4,00,000/- in commercial quantity.

2.1 The goods i.e. 50 pieces of Mobile Accessories were not declared and were in commercial quantity and cannot be treated as bonafide baggage, and were in excess of the baggage allowance. Therefore, they were liable for confiscation under Sections 111(d), (1), (m) & (o) read with Section 3(3) of the Foreign Trade (Development & Regulation) Act, 1992.

2.2 The Charges have been orally communicated to the appellant in respect of the goods i.e. 50 pieces of Mobile Accessories imported by him. The appellant requested that order in the case may be passed without issue of show cause notice to him.

2.3 The Adjudicating authority, vide the impugned order, has ordered for absolute confiscation of goods i.e. 50 pieces of Mobile Accessories under Section 111(d), 111(l), 111(m) and 111(o) of the Customs Act, 1962, read with Section 3(3) of the Foreign Trade (Development & Regulation) Act, 1992. The adjudicating authority has also imposed penalty of Rs. 40,000/- on the appellant under Section 112(a) of the Customs Act, 1962.

3. Being aggrieved with the impugned order, the appellant has filed the present appeal and mainly contended that;

- The impugned order for absolute confiscation of old and used electronics goods is illegal, improper, arbitrary and incorrect both on facts as well as Law and hence deserves to be quashed, and set aside in so far as order for the imposition of Penalties are concerned.
- Coming to the penalties imposed it may be stated that since the goods in question were not prohibited, the penalty under the provisions of the Customs Act 1962 could not have been more than

the duty involved which in this case is Rs. 40,000/- since the passenger is entitled to the exemption under notification no. 12/2012-Cus as amended from time to time. In this connection it may be stressed that the said notification is an exemption notification u/s 25(1) of the Act and not an enabling notification under the policy. Moreover, the notification does not differentiate between different goods, so long as they are brought as baggage.

- Similarly, section 112 (i) and (ii) (iii) clearly restrict the Maximum penalty to be equal to the duty involved. Hence imposition a penalty of Rs 40,000/- is illegal and arbitrary and hence needs to be reduced commensurate with the offence.
- In this connection the appellant submitted that the Ld. Adjudicating Authority must be consistent while deciding similar cases, to uphold the Fundamental Right to Equality enshrined in Article 14 of the Constitution of India.

4. Shri Rishikesh Mehra, Advocate, appeared for personal hearing on 11.12.2025 on behalf of the appellant. He reiterated the submissions made in the appeal memorandum.

5. Before going into the merits of the case, I find that the appeal filed by the appellant, have been filed beyond normal period of 60 days but within the condonable period of 30 days as stipulated under Section 128(1) of the Customs Act, 1962. Appellant has requested for condoning the delay in filing the said appeals on the grounds that he was unable to pursue as per order in stipulated time and brief the advocate causing delay in filing the appeal. Therefore, taking a lenient view to meet the ends of justice, I allow the appeal, as admitted condoning the delay in filing the appeal beyond the normal period of 60 days under proviso to the Section 128(1) of the Customs Act, 1962

6. I have gone through the facts of the case available on record, and the grounds of appeal. It is observed that the issues to be decided in the present appeal are as under;

(a) Whether the impugned order directing absolute confiscation of 50 pieces of Mobile Accessories under Section 111(d), 111(l), 111(m) and 111(o) of the Customs Act, 1962, read with Section 3(3) of the Foreign Trade (Development & Regulation) Act, 1992, in the facts and circumstances of the case, is legal and proper or otherwise;

(b) Whether the penalty of Rs. 40,000/- imposed on the appellant under Section 112(a) of the Customs Act, 1962, in the facts and circumstances of the case, is legal and proper or otherwise.

6.1 It is observed that, baggage of the appellant, who had arrived from Dubai by Indigo Flight No SG 16, on 08.07.2025, at SVP International Airport, Ahmedabad, were examined by the Customs Officers which resulted in recovery of 50 pieces of Mobile Accessories which were not declared and were in commercial quantity and cannot be treated as bonafide baggage, and were in excess of the baggage allowance. Therefore, the same were confiscated absolutely by the adjudicating authority.

6.2 I have carefully gone through the appeal memorandum as well as records of the case, submissions made by the appellant during course of hearing as well as the documents and evidences available on record. I find that the appeal has been against ITC Case No. 2883, dated 08.07.2025. I find that no speaking order is available on record. It is also observed that no description of goods is available on record. The adjudicating authority in the impugned order has held that the appellant had brought 50 pieces of Mobile Accessories in commercial quantity which are prohibited/restricted. Thus, the goods are liable to confiscation. Therefore, the adjudicating authority had ordered for absolute confiscation of the goods. Findings of the adjudicating authority is as under:

> *"As the goods falls under the category prohibited/restricted under C.A. 1962, hence liable for absolute confiscation."*

6.2 The adjudicating authority has not specified whether the goods are restricted or prohibited. Further, the words "Mobile Accessories" represent general category of goods, not description of goods. It is not forthcoming that actually which mobile accessories have been imported. In absence of actual description of goods, it cannot be ascertained whether the goods fall under the category of restricted or prohibited. The appellant in the appeal memorandum has also not specified the description of goods. The appeal was sent to the adjudicating authority for his comments on the grounds raised in appeal, but there has been no response. Since, entire facts are not available on record to verify the description and nature of goods, I find remitting the cases, for considering the submission of the appellant and passing speaking order, becomes sine qua non to meet the ends of justice. Accordingly, the case is required to be remanded back to the adjudicating authority, in terms of sub-section (3) of Section 128A of the Customs Act, 1962, for passing a fresh order by following the principles of natural justice. In this regard, I also 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 High Court Bombay in case of Ganesh Benzoplast Ltd. [2020 (374) E.L.T. 552 (Bom.)] and judgments of Hon'ble Tribunals in case of Prem

Steels Pvt. Ltd. [2012-TIOL-1317-CESTAT-DEL] and Hawkins Cookers ltd. [2012 (284) E.L.T. 677 (Tri.-Del)] holding 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.

7. In view of above, I allow the appeal by way of remand to the adjudicating authority for examination of claims of the appellant. The adjudicating authority shall examine the available facts, documents, submissions and issue speaking order afresh following principles of natural justice and legal provisions. While passing this order, no opinion or views have been expressed on the merits of the case or the submissions made by the appellant in this regard, which shall be independently examined by the adjudicating authority.

(AMIT GUPTA)
COMMISSIONER (APPEALS)
CUSTOMS, AHMEDABAD.

By Registered Post A.D.

F.Nos. S/49-173/CUS/AHD/2025-26 ४९०१ Dated –19.12.2025

To,

(i) Shri Rajendra Singh Rathore,
Resi-21/28, Ponnapa, chetty Street,
3rd floor, Park Town, Chennai-600003,

(ii) Rishikesh J Mehra, B/1103, Dev Vihaan,
Behind 3rd Eye Residency, Motera Stadium Road,
Motera, Sabarmati, Ahmedabad-380005

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

Copy to:

1. The Principal Chief Commissioner of Customs Gujarat, Customs House, Ahmedabad.
2. The Principal Commissioner of Customs, Customs, Ahmedabad.
3. The Deputy/Assistant Commissioner of Customs, SVP International Airport, Ahmedabad.
4. Guard File