



सीमाशुल्क(अपील) आयुक्तकाकार्यालय,
 OFFICE OF THE COMMISSIONER OF CUSTOMS
 (APPEALS), अहमदाबाद AHMEDABAD,
 चौथी मंज़िल 4th Floor, हडकोभवन HUDCO Bhavan, ईश्वर भुवन रोड़ IshwarBhuvan Road,
 नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009
 दूरभाषक्रमांक Tel. No. 079-26589281

DIN – 20260371MN000001590A

क	फ़ाइलसंख्या FILE NO.	S/49-35/CA-2/CUS/MUN/MAR/2025-26
ख	अपीलआदेशसंख्या ORDER-IN- APPEAL NO. (सीमाशुल्कअधिनियम, 1962 कीधारा 128ककेअंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962) :	MUN-CUSTM-000-APP-928-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	30.03.2026
ङ	उदभूतअपीलआदेशकीसं. वदिनांक ARISING OUT OF ORDER-IN- ORIGINAL NO.	MCH/ADC/ZDC/440/2025-26 dated 17.12.2025
च	अपीलआदेशजारीकरनेकीदिनांक ORDER- IN-APPEAL ISSUED ON:	30.03.2026
छ	अपीलकर्ताकानामवपता NAME AND ADDRESS OF THE APPELLANT:	Deputy Commissioner of Customs (Review), Custom House, Mundra.



1.	यह प्रतिउसव्यक्तिके निजीउपयोगके लिएमुफ्तमें दीजाती हैजिनके नामयहजारी किया गया है. 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) केअधीननिम्नलिखितश्रेणियोंके मामलोंकेसम्बन्धमेंकोईव्यक्तिइसआदेशसेअपनेकोआहतमहसूसकरताहोतोइसआदेशकीप्राप्तिकीतारीखसे 3 महीनेकेअंदरअपरसचिव/संयुक्तसचिव (आवेदनसंशोधन), वित्तमंत्रालय, (राजस्वविभाग) संसदमार्ग, नईदिल्लीकोपुनरीक्षणआवेदनप्रस्तुतकरसकतेहैं. 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)	बैगेजकेरूपमेंआयातितकोईमाल. (a) any goods imported on baggage.
(ख)	भारतमेंआयातकरनेहेतुकिसीवाहनमेंलादागयालेकिनभारतमेंउनकेगन्तव्यस्थानपरउतारेनगएमालयाउसगन्तव्यस्थानपरउतारेजानेकेलिएअपेक्षितमालउतारेनजानेपरयाउसगन्तव्यस्थानपरउतारेगएमालकीमात्रामेंअपेक्षितमालसेकमीहो. (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.	पुनरीक्षणआवेदनपत्रसंगतनियमावलीमेंविनिर्दिष्टप्रारूपमेंप्रस्तुतकरनाहोगाजिसकेअन्तर्गतउसकीजांचकीजाएगीऔरउसकेसाथनिम्नलिखितकागजातसंलग्नहोनेचाहिए : 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)	सम्बद्धदस्तावेजोंकेअलावासाथमूलआदेशकी 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.	<p>मदसं. 2 केअधीनसूचितमामलोंकेअलावाअन्यमामलोंकेसम्बन्धमेंयदि कोईव्यक्तिइसआदेशसेआहतमहसूसकरताहोतोवेसीमाशुल्कअधिनियम 1962 कीधारा 129 ए (1) केअधीनफॉर्मसी.ए.-3 मेंसीमाशुल्क, केन्द्रीयउत्पादशुल्कऔरसेवाकरअपीलअधिकरणकेसमक्षनिम्नलिखितपतेपरअपीलकरसकतेहैं</p>				
	<p>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 :</p>				
	<table border="1"> <tr> <td>सीमाशुल्क, केन्द्रीयउत्पादशुल्कवसेवाकरअपीलियअधिकरण, पश्चिमीक्षेत्रीयपीठ</td> <td>Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench</td> </tr> <tr> <td>दूसरीमंजिल, बहुमालीभवन, निकटगिरधरनगरपुल, असारवा, अहमदाबाद-380016</td> <td>2nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016</td> </tr> </table>	सीमाशुल्क, केन्द्रीयउत्पादशुल्कवसेवाकरअपीलियअधिकरण, पश्चिमीक्षेत्रीयपीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench	दूसरीमंजिल, बहुमालीभवन, निकटगिरधरनगरपुल, असारवा, अहमदाबाद-380016	2 nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
सीमाशुल्क, केन्द्रीयउत्पादशुल्कवसेवाकरअपीलियअधिकरण, पश्चिमीक्षेत्रीयपीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench				
दूसरीमंजिल, बहुमालीभवन, निकटगिरधरनगरपुल, असारवा, अहमदाबाद-380016	2 nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016				
5.	<p>सीमाशुल्कअधिनियम, 1962 कीधारा 129 ए (6) केअधीन, सीमाशुल्कअधिनियम, 1962 कीधारा 129 ए(1)केअधीनअपीलकेसाथनिम्नलिखितशुल्कसंलग्नहोनेचाहिए-</p>				
	<p>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 -</p>				
(क)	<p>अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपाँचलाखरूपएयाउससेकमहोतोएकहज़ाररूपए.</p>				
(a)	<p>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;</p>				
(ख)	<p>अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपाँचलाखरूपएसेअधिकहोलेकिनरुपयेपचासलाखसेअधिकनहोतो, पाँचहज़ाररूपए</p>				
(b)	<p>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 ;</p>				
(ग)	<p>अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपचासलाखरूपएसेअधिकहोतो, दसहज़ाररूपए.</p>				
(c)	<p>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</p>				
	<p>इसआदेशकेविरुद्धअधिकरणकेसामने, मांगेगएशुल्कके 10% अदाकरनेपर, जहांशुल्कयाशुल्कएवंदंडविवादमेंहैं, यादंडके 10% अदाकरनेपर, जहांकेवलदंडविवादमेंहै, अपीलरखाजाएगा।</p>				
(d)	<p>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.</p>				
6.	<p>उक्तअधिनियमकीधारा 129 (ए) केअन्तर्गतअपीलप्राधिकरणकेसमक्षदायरप्रत्येकआवेदनपत्र- (क) रोकआदेशकेलिएआगतियोंकोसुधारनेकेलिएयाकिसीअन्यप्रयोजनकेलिएकिएगएअपील : - अथवा (ख) अपीलयाआवेदनपत्रकाप्रत्यावर्तनकेलिएदायरआवेदनकेसाथरुपयेपाँचसौकाशुल्कभीसंलग्नहोनेचाहिए.</p>				
	<p>Under section 129 (a) of the said Act, every application made before the Appellate Tribunal-</p>				
(a)	<p>in an appeal for grant of stay or for rectification of mistake or for any other purpose; or</p>				
(b)	<p>for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.</p>				



ORDER-IN-APPEAL

The Deputy Commissioner of Customs (Review), Custom House, Mundra, (hereinafter referred to as 'the appellant department') have filed the present appeal in terms of Section 129D (4) of the Customs Act, 1962 on the basis of Authorization/Review Order No. 47/OIO/2025-26 dated 18.02.2026 issued by the Commissioner of Customs, Mundra, challenging Order-in-Original No. MCH/ADC/ZDC/440/2025-26 dated 17.12.2025 (hereinafter referred to as "the impugned order") passed by the Additional Commissioner, Custom House, Mundra (hereinafter referred to as "the adjudicating authority") in case of M/s Spraywell Agro Equipments, Shalin Bunglows, Near Sardar Patel Ringroad, Shilaj, Ahmedabad -380058 (hereinafter referred to as 'the respondent').

2. Briefly stated, facts of the case are that the respondent, filed multiple Bills of Entry during the period December 2019 to May 2021 for import of goods declared mainly as "Agriculture Mist Blower" and certain related items under CTH 8424. The respondent classified the goods under CTH 84244900 and claimed concessional IGST rate of 12% by availing the benefit of Serial No 195B of Schedule-II of Notification No. 01/2017-IGST (Rate), applicable to sprinklers, drip irrigation systems including laterals, and mechanical sprayers.

2.1 An analytics-based scrutiny conducted by NCTC, Mumbai revealed that the imported goods were not sprinklers, drip irrigation systems, or mechanical sprayers as specified under Serial No. 195B. Instead, they were other mechanical appliances for spraying/projecting liquids falling under CTH 8424, which attract IGST at 18% under Serial No. 325 of Schedule-III of the same notification.

2.2 It was noticed that due to the wrong availment of the concessional IGST rate, IGST was short-paid. A Show Cause Notice dated 24 12.2024 (with corrigendum dated 10.11.2025) was issued proposing denial of exemption under Serial No. 195B, re-assessment at 18% IGST, recovery of differential IGST amounting to Rs. 62,713/-along with interest, confiscation of goods under Section 111(m) of the Customs Act, 1962, and imposition of penalty under Section 114A.



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2.3 The respondent did not attend any of the personal hearings but submitted a written reply claiming that mist blowers are mechanical sprayers used for agricultural purposes and hence eligible for 12% IGST.

2.4 The main issue examined was whether the imported goods were eligible for concessional IGST rate under Serial No. 195B. On examination of the description, nature and scope of Serial No. 195B, it was found that the entry specifically covers only sprinklers, drip irrigation systems including laterals, and mechanical sprayers. Goods other than these are expressly excluded and fall under Serial No. 325 of Schedule-III, attracting IGST at 18%.

2.5 The respondent failed to produce any technical literature or evidence to establish that the imported mist blowers were "mechanical sprayers" as envisaged under Serial No. 195B. Merely stating agricultural use or reliance on domestic GST rate was held to be insufficient. IGST on imports is governed strictly by the IGST Act read with the Customs Tariff Act and relevant notifications.

2.6 Accordingly, the benefit of Serial No. 195B was found to be wrongly claimed, resulting in short payment of IGST. The mis-declaration was held to be willful, attracting extended period under Section 28(4) of the Customs Act, 1962. The goods were held liable for confiscation under Section 111(m); however, no redemption fine was imposed as the goods were not physically available.

2.7 Accordingly, the adjudicating authority ordered

(i) to deny the benefit of Serial No. 195B of Schedule-II of IGST Notification 01/2017-IGST(Rate) on the imported goods as mentioned in Table-A, supra and hold that the said goods are required to be assessed at the correct rate of IGST @18% under Sr. No. 325 of Schedule-III of IGST Notification No.

(ii) holds that the goods covered under the Bills of Entry as mentioned in Table-A, supra, having assessable value of Rs. 10,45,224/- (Rupees Ten Lakh Forty Five Thousand Two Hundred and Twenty Four only) are liable for confiscation under Section 111(m) of the Customs Act, 1962. Since the subject goods have already been cleared in the past and are not available for



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confiscation, he refrains from imposing any Redemption fine under Section 125 of the Customs Act, 1962.

(iii) confirms the differential duty demand of Rs. 62,713/- (Rupees Sixty Two Thousand Seven Hundred and Thirteen only) under Section 28(4) of the Customs Act, 1962 read with Section 5 of the Integrated Goods and Service Tax Act, 2017 along with applicable interest under Section 28AA of the Customs Act, 1962 in respect of Bills of Entry as mentioned in the impugned order,

(iv) imposes a penalty of Rs. 62,713/- (Rupees Sixty Two Thousand Seven Hundred and Thirteen only) under Section 114A of the Customs Act, 1962.

3. The appellant department has contended that the adjudicating authority has erred in holding that redemption fine under Section 125 of the Customs Act, 1962 is not imposable merely on the ground that the goods were not physically available for confiscation. Being aggrieved by the non-imposition of redemption fine in lieu of confiscation in the impugned order on account of such non-availability, the appellant department has preferred the present appeal, inter alia, contending as under:

- *"The adjudicating authority has erred in law by holding that redemption fine under Section 125 of the Customs Act, 1962 is not imposable merely because the goods are not physically available for confiscation. The authority failed to appreciate that the statutory trigger for imposition of redemption fine is the authorization of confiscation, and not the physical availability of goods. Once goods are held liable to confiscation under Section 111 or Section 113 of the Customs Act, the power to impose redemption fine automatically flows under Section 125 of the Act.*

- *The Hon'ble Madras High Court in M/s Visteon Automotive Systems India Pvt. Ltd., reported at 2018 (9) G.S.T.L. 142 (Mad.), has conclusively held that:*

Penalty under Section 112 and redemption fine under Section 125 operate in two distinct fields;

Redemption fine is imposed in lieu of confiscation of goods;

The opening words of Section 125, "Whenever confiscation of any goods is authorised by this Act", clearly establish that physical availability of goods is not necessary for imposition of redemption fine; and

Redemption fine is intended to avoid the consequences flowing from confiscation under Section 111 of the Act.

The adjudicating authority has failed to follow this binding judgment, rendering the impugned order legally unsustainable.

- *The Hon'ble Gujarat High Court in M/s Synergy Fertichem Ltd., reported at 2020 (33) G.S.T.L. 513 (Guj.), has reaffirmed the above legal position and expressly followed the judgment of the Hon'ble Madras High Court in Visteon Automotive Systems. The Hon'ble Court held that the prerequisite for offering redemption fine is the finding that the goods are liable to confiscation. The Court further clarified that non-availability of goods does not bar the imposition of redemption fine. The impugned order is in direct conflict with this authoritative pronouncement.*
- *The Hon'ble CESTAT, West Zonal Bench, Ahmedabad, in Van Oord India Pvt. Ltd. (Customs Appeal No. 10679/2024-DB, Order dated 13.11.2025), has categorically held that:*

Physical non-availability of goods does not affect confiscation or imposition of redemption fine;

The power to impose redemption fine springs from authorisation of confiscation under Section 111; and

Redemption fine is meant to avoid the consequences of confiscation and save the goods from such confiscation.

The adjudicating authority, being subordinate to the jurisdictional Tribunal, was bound to follow this settled position of law.

- *The appellant department further contended that the opening words of Section 125 of the Customs Act, 1962 clearly provide that "Whenever confiscation of any goods is authorised by this Act", the adjudicating authority may impose redemption fine. The statute does not prescribe physical availability of goods as a condition precedent. It is a settled legal principle that once the power of confiscation is traceable to Section 111 or Section 113 of the Act, the physical availability of goods becomes irrelevant for the purpose of imposing redemption fine. This principle applies equally to cases of improper import as well as attempted improper export.*
- *The appellant department further contended that in view of the settled legal position laid down by the Hon'ble Madras High Court, Hon'ble Gujarat High Court, and consistently followed by the Hon'ble CESTAT, the adjudicating authority has committed a clear error of law by not imposing redemption fine*



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under Section 125 of the Customs Act, 1962 solely on the ground that the goods were not physically available.

• In view of the above facts and submissions, the impugned Order-in-Original passed by the Additional Commissioner of Customs, Custom House Mundra is not legal and proper and therefore, in the interest of justice, prayed to:

- i. Set aside the impugned Order-in-Original to the extent it failed to impose redemption fine under Section 125 of the Customs Act, 1962.*
- ii. Refer the matter back to Adjudicating Authority to consider it as a fresh with regard that redemption fine is imposable irrespective of the physical availability of the goods.”*

4. A letter F. No. S/49-35/CA-2/CUS/MUN/MAR/2025-26 dated 12.03.2026 was send to the respondent for submitting their comment. Personal hearing in the matter were scheduled on 17.03.2026. However, no comments was received and no one appeared for personal hearing. Hence, the appeal is taken up for decision on the basis of documents available on record.

5. It is observed that the respondent, imported goods declared as “agriculture mist blowers” during December 2019 to May 2021 under CTH 84244900 and availed concessional IGST @12% under Serial No. 195B of Notification No. 01/2017-IGST (Rate), claiming them as mechanical sprayers. However, on analytics-based scrutiny by NCTC, Mumbai, it was found that the goods were not covered under sprinklers, drip irrigation systems, or mechanical sprayers specified in the said entry, but were classifiable under CTH 8424 attracting IGST @18% under Serial No. 325 of Schedule-III. A Show Cause Notice dated 24.12.2024 (corrigendum dated 10.11.2025) was issued proposing denial of exemption, recovery of differential IGST of ₹62,713/- with interest, confiscation under Section 111(m), and penalty under Section 114A of the Customs Act, 1962. The respondent, though absent for personal hearings, contended in written submissions that mist blowers are agricultural sprayers; however, no technical evidence was furnished to substantiate eligibility under Serial No. 195B. It was held that IGST applicability on imports is governed strictly by relevant statutory provisions and notifications, and mere end-use or domestic GST parity is not determinative. Accordingly, the concessional benefit was denied, mis-declaration was held willful invoking extended period under Section 28(4), and the adjudicating authority ordered re-assessment at 18% IGST, confirmed differential duty of ₹62,713/- with interest under Section



28AA, imposed equivalent penalty under Section 114A, and held the goods liable for confiscation under Section 111(m), while refraining from imposing redemption fine as the goods were not physically available.

5.1 It is observed that the present appeal has been preferred by the appellant department solely on the ground that the adjudicating authority failed to impose redemption fine under Section 125 of the Customs Act, 1962, merely on the basis that the goods were not physically available for confiscation. It is further observed that the impugned order does not contain any specific finding or reasoning for non-imposition of redemption fine. Accordingly, in my considered view, the impugned order, to that extent, is a non-speaking order insofar as the issue of non-imposition of redemption fine is concerned.

5.2 It is further observed that the appellant department has relied upon the following case laws

- (i) M/s Visteon Automotive Systems India Pvt. Ltd., reported at 2018 (9) G.S.T.L. 142 (Mad.)
- (ii) M/s Synergy Fertichem Ltd., reported at 2020 (33) G.S.T.L. 513 (Guj.)
- (iii) Final Order No. 11039-11040/2025 DATED 13.11.2025 of Hon'ble CESTAT, West Zonal Bench, Ahmedabad, in the case of Van Oord India Pvt. Ltd. Versus Commissioner of Customs, Ahmedabad in Customs Appeal No. 10679/2024-DB.

wherein it has been held that physical availability of goods is not necessary for imposition of redemption fine.

It is further observed that the appellant department has also prayed to refer the matter back to Adjudicating Authority to consider it as a fresh with regard that redemption fine is imposable irrespective of the physical availability of the goods.

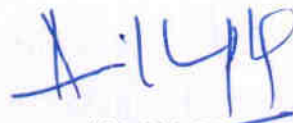
5.4 In view of the foregoing, it is observed that the adjudicating authority, while passing the impugned order, has not recorded any specific finding or provided cogent reasons for non-imposition of redemption fine under Section 125 of the Customs Act, 1962. It is further noted that the appellant department has relied upon various judicial pronouncements wherein it has been consistently held that physical availability of the goods is not a sine qua non for imposition of redemption fine, and that such fine can be imposed even

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where the goods are no longer available. In these circumstances, I find that the matter requires reconsideration by the adjudicating authority with due application of the legal position as well as the contentions advanced by the appellant department. Accordingly, I am inclined to remand the matter to the adjudicating authority for passing a fresh, reasoned and speaking order after duly examining the grounds of appeal and affording an opportunity of hearing in accordance with the principles of natural justice.

5.5 Thus, I am of the considered view that remitting of the matter to the lower authority has become *sine qua non* to meet the ends of justice. The adjudicating authority is required to examine all the contentions raised by the appellant department and record his finding and issue order accordingly. In this regard, I rely upon the case of *Prem Steels P. Ltd. - 2012-TIOL-1317-CESTAT-DEL* and the case of *Hawkins Cookers Ltd. -2012 (284) E.L.T. 677 (Tri. - Del)*, which have also relied upon the case of *Medico Labs - 2004(173) ELT 117 (Guj.)*, wherein it has been held that Commissioner (Appeals) continue to have power of remand even after the amendment of Section 35(A) of the Central Excise Act, 1944 by Finance Act, 2001 w.e.f. 11.05.2001.

6. In light of the aforesaid facts and circumstances, the appeal filed by the appellant department is allowed by way of remand. The matter is remitted to the adjudicating authority to pass a reasoned and speaking order, in accordance with the principles of natural justice and applicable legal provisions. It is clarified that no opinion has been expressed on the merits of the case or on the submissions made by the appellant department, and the same shall be examined independently by the adjudicating authority.


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

By Registered Post A.D.

F.Nos. S/49-35/CA-2/CUS/MUN/MAR/2025-26

Dated -30.03.2026

To,

(i) The Deputy Commissioner of Customs (Review),
Custom House, Mundra.

(ii) M/S Spraywell Agro Equipments,
Shalin Bungalows, Near Sardar Patel Ringroad,
Shilaj, Ahmedabad -380058



Copy to:

1. The Chief Commissioner of Customs Gujarat, Customs House, Ahmedabad.
2. The Principal Commissioner of Customs, Customs House, Mundra.
3. The Joint/ Additional Commissioner of Customs, Custom House, Mundra.
4. The Joint/ Additional Commissioner of Customs, Custom House, Mundra. Pl find enclosed one above copy to serve the respondent in person.
5. Guard File.



