



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD,
चौथी मंज़िल 4th Floor, हडको भवन HUDCO Bhawan, ईश्वर भुवन रोड Ishwar Bhuvan Road
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009
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DIN – 20251171MN0000616516

क	फ़ाइल संख्या FILE NO.	S/49-199/CUS/AHD/24-25
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962) :	AHD-CUSTM-000-APP-309-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	06.11.2025
ङ	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	OIO No.: 125/AR/ADC/ICD-SACHIN/ SRT/24-25 dt. 05.08.2024 passed by the Additional Commissioner of Customs, ICD-Sachin, Surat
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	06.11.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Nilkanth Creation (Prop. Shri Jerambhai Miyani), 49-50, 13-14, 2 nd Floor, Ishwar Moti Ind. Society, Ved Road, Near Nani Bahucharaji, Surat- 395004.

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.	सीमा शुल्क अधिनियम 1962 की धारा 129 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 हैं.



	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)	बैगेज 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 संनग्र 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 दस्तावेजों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. 200/- (रुपए दो सौ मात्र)या रु.1000/- (रुपए एक हजार मात्र), जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां. यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रुपए 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 अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench
	दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 nd 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)	(क) अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रुपए या उससे कम हो तो एक हजार रुपए।	
(a)	(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)	(ख) (ख) अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रुपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पाँच हजार रुपए	
(b)	(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)	(ग) (ग) अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रुपए से अधिक हो तो; दस हजार रुपए।	
(c)	(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)	(घ) इस आदेश के विरुद्ध अधिकरण के मामने, मांगे गए शुल्क के १० अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के १०अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा।	
(d)	(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

M/s. Nilkanth Creation (Prop. Shri Jerambhai Miyan), 49-50, 13-14, 2nd Floor, Ishwar Moti Ind. Society, Ved Road, Near Nani Bahucharaji, Surat-395004 (hereinafter referred to as "the Appellant") have filed the present appeal against the Order-In-Original No. : 125/AR/ADC/ICD-SACHIN/ SRT/24-25 dt. 05.08.2024 (herein after referred to as "the impugned order") passed by the Additional Commissioner of Customs, ICD-Sachin, Surat (herein after referred to as "the "adjudicating authority").

2. Facts of the case, in brief, are that the Appellant had imported Capital Goods machinery, i.e. 04 sets of Multi Head Computerised Embroidery Machine under EPCG Licence No.: 5230018813, dated 10.12.2015 by saving Customs Duty amount of Rs. 11,55,041/- (Actual Duty Utilization of Rs. 11,64,917/-) under the cover of the below mentioned Bill of Entry by availing Zero rate of duty benefit of exemption available under Notification No. : 16/2015 - Cus., dated 01.04.2015. The details of import are as per Table – I below:

TABLE .. I

Sr. No.	Bill of Entry No. & Date	Qty. machinery cleared	Ass. Value (Rs.)	Duty saved / available as per EPCG Licence (In Rs.)	Total Duty Foregone / Debited at the time of clearance (In Rs.)	Bank Guarantee Amount (In Rs.)
1.	3735474 dtd.28.12.15	02	24,64,568/-		5,77,091/-	1,90,000/-
2	4161075 dtd.05.02.16	02	25,10,412/-		5,87,826/-	
TOTAL		04	49,74,980/-	11,55,041/-	11,64,917/-	

2.1 Against the said EPCG Licence No.: 5230018813, dated 10.12.2015 , the Appellant had executed a Bond dated 28.12.2015 before the Deputy/Assistant Commissioner of Customs, ICD – Sachin, Surat for an amount of Rs. 30,00,000/- backed by a Bank Guarantee No.:102/2015-16, dated 10.12.2015 for Rs. 1,90,000/- issued by the Laxmi Vilas Bank (Merged with DBS Bank India Limited), Ring Road, Surat. They had undertaken to fulfill the export obligation as specified in the Notification and the licence.

2.2 The said machinery, i.e., 04 sets of Multi Head Computerised Embroidery Machine imported under the aforesaid EPCG Licence were installed at their premises, as per the Installation Certificate dated 09.05.2016 issued by the Chartered Engineer, Dr. P J Gandhi, Surat certifying the receipt of the goods imported and its installation.

2.3 As per the conditions of Notification No. 16/2015 - Cus., dated 01.04.2015, the Appellant was required to fulfill the export obligation on FOB basis equivalent to Six



times of the duty saved on the goods imported as specified on the Licence and Authorization, within a period of Six years from the date of issuance of EPCG Licence In the instant case, the EPCG Licence was issued to the Appellant on 10.12.2015 and accordingly, they were required to fulfill export obligation by 09.12.2021, i.e., within a period of Six years from the date of issuance of Licence or Authorization and submit the Export Obligation Discharge Certificate (EODC) issued by the Regional DGFT Authority before the jurisdictional Customs authorities.

2.4 In the matter, a letter dated 13.01.2023 was issued to the Appellant requesting them to either furnish the Export Obligation Discharge Certificate (EODC) issued by the DGFT, Surat or any extension issued by the DGFT, Surat for fulfillment of export obligation. However, the Appellant had not responded to the above correspondence.

2.5 Since, no response was received from the Appellant, letter dated 02.03.2023 was written to the Foreign Trade Development Officer, DGFT, Surat requesting to inform whether the appellant has been issued EODC against the EPCG licence or any documents showing the fulfilment of the export obligation submitted by the appellant. However, no reply to the above letter was received from the DGFT till date.

2.6 In view of the above, it appeared that the Appellant had failed to fulfill the export obligation as specified in the Licence and did not comply with the mandatory condition of the Notification No. 16/2015 - Cus., dated 01.04.2015, the condition of EPCG Licence and also the conditions of the Bond executed and furnished by them. The Appellant neither produced the EODC issued by the DGFT, Surat nor could produce any documents showing extension granted by them for fulfillment of export obligation. Therefore, the Appellant was liable to pay Customs Duty not paid (i.e. saved) by them amounting to Rs. 11,64,917/- at the time of import / clearance along with interest at the applicable rate, in terms of conditions of the said Notification read with condition of the Bond executed by them read with Section 143 of the Customs Act, 1962. Further, the Bank Guarantee No.:102/2015-16, dated 10.12.2015 for Rs. 1,90,000/- issued by the Laxmi Vilas Bank (Merged with DBS Bank India Limited), Ring Road, Surat furnished by them against the aforesaid EPCG Licence No.: 5230018813, dated 10.12.2015 appeared liable to be encashed and deposited in the Government Exchequer.

2.7 Accordingly, a Show Cause Notice under F.No.: VIII/6-3026/ICD-Sachin/2015-16 dt. 08.12.2023 was issued to the Appellant, proposing as to why:

- i. The benefit of Zero duty for EPCG Scheme under Notification No.: 16/2015-Cus., dated 01.04.2015 on the imported 04 sets of Multi Head Computerised Embroidery Machine in their name, should not be denied;



- ii. Customs Duty amounting to Rs. 11,64,917/- being the duty foregone at the time of import under EPCG Licence should not be demanded and recovered from them along with interest in terms of Notification No. 16/2015-Cus., dated 01.04.2015 as amended, read with the conditions of Bond executed and furnished by them in terms of Section 143 of the Customs Act, 1962 by enforcing the terms of the said Bond. Further, why the Bank Guarantee No.:102/2015-16, dated 10.12.2015 for Rs. 1,90,000/- issued by the Laxmi Vilas Bank (Merged with DBS Bank India Limited), Ring Road, Surat backed against the Bond, should not be appropriated and adjusted towards the duty liability as mentioned above;
- iii. The imported Capital goods should not be held liable for confiscation under Section 111 (o) of the Customs Act, 1962 read with the conditions of Bond executed in terms of Section 143 of the Customs Act, 1962 read with Customs Notification No. 16/2015-Cus., dated 01.04.2015 as amended from time to time;
- iv. Penalty should not be imposed under Section 112 (a) and Section 117 of the Customs Act, 1962;

2.8 The Adjudicating Authority, vide the impugned order, has passed order as detailed below:

- i. He disallowed the benefit of Zero rate of duty for EPCG Scheme under Notification No. 16/2015-Cus., dated 01.04.2015 on the subject machinery imported in the name of the Appellant;
- ii. He confirmed the demand of Customs Duty amounting to Rs. 11,64,917/- being the duty foregone at the time of import of Capital Goods under EPCG Licence in terms of Notification No. 16/2015-Cus., dated 01.04.2015 as amended, read with the conditions of Bond executed along with interest and ordered the same to be recovered in terms of Section 143 of the Customs Act, 1962 by enforcing the terms of the above mentioned Bond;
- iii. He confiscated the subject imported Capital goods under Section 111 (o) of the Customs Act, 1962 read with the conditions of Bond executed in terms of Section 143 of the Customs Act, 1962 read with Customs Notification No. 16/2015 - Cus., dated 01.04.2015. However, he gave an option to redeem the said goods on payment of redemption fine of Rs. 24,87,490/- under Section 125 of the Customs Act, 1962;
- iv. He ordered to appropriate the amount of Rs. 1,90,000/- by encashment of the Bank Guarantee No.: 102/2015-16, dated 10.12.2015 for Rs. 1,90,000/- issued by the Laxmi Vilas Bank (Merged with DBS Bank India Limited), Ring Road, Surat submitted by the Appellant, towards the confirmed duty liability;
- v. He imposed penalty of Rs. 1,16,492/- upon the Appellant under Section 112 (a) of the Customs Act, 1962;
- vi. He imposed penalty of Rs. 1,00,000/- upon the Appellant under Section 117 of the Customs Act, 1962;





3. Being aggrieved with the impugned order passed by the adjudicating authority, the Appellant have filed the present appeal. The Appellant have, inter-alia, raised various contentions and filed detailed submissions in their Appeal memorandum dt. 24.10.2024 and further submission dt. 09.09.2025, as given below in support of their claims:

- The Ld. AC has erred in denying the benefit of zero rate of duty for EPCG scheme under Notification No. 16/2015-Cus dated 01-04-2015.
- The Ld. Additional Commissioner has erred both in law and in fact while passing the order.
 - a. There is inherent provision in Revenue notifications to keep action of Customs pending till EODC is issued by DGFT.
 - b. Therefore, the impugned order is against the facts, illegal and arbitrary.
 - c. It is submitted that the appellant has imported certain capital goods under authorisation under EPCG Scheme for which export obligation in terms of said authorisation was to be fulfilled within stipulated time frame.
 - d. Admittedly exports obligation thereof has been fulfilled in year 2018. Delay issuance of EODC from the office of DGFT should not be ground to penalise the appellant.
- The delay in obtaining Export Obligation Discharge Certificate (EODC) cannot result in denial of benefit under the EPCG Scheme, which itself has been formulated to promote export and earn foreign exchange.

As per the Final order of the Hon'ble Telangana High Court in Hetro Labs Ltd. vs. Assistant Commr. of Customs, Chennai-2019 (370) ELT 234 (Telangana) held as under:

"17. Significantly, it is not the contention of the customs authorities that the delay in issuance of the redemption certificates was attributable to the petitioner. It was therefore for the authorities themselves to put in place necessary machinery to see that such certificates were issued promptly, so that they could be produced within the time stipulated in Condition (ix) of Notification No. 96 of 2009, dated 11.09.2009. An importer who duly complied with such export obligations in terms of the exemption granted under the Foreign Trade Policy cannot be penalised for delay on the part of the authorities in processing the necessary documentation.



"18. Given the aforesated admitted facts, we find that the first respondent adopted a tediously hidebound approach in dealing with the matter. According to the petitioner, the fact that it had discharged its export

obligations would have been well within the knowledge of the customs authorities themselves and all that the first respondent had to do was to cross verify the factum of such compliance even if the petitioner failed to appear before him. We find merits in this submission"

- The impugned order is being passed without providing opportunity of being heard and hence liable to be set aside.
- The Appellant submits proof of their application having been submitted to DGFT, the matter may be kept in abeyance till the same is decided by DGFT as per the Circular No. 16/2017-Customs.
- The Ld. AC has failed to appreciate that the appellant has no mens-reas on the part of appellant.
- The Ld. AC has erred in levying penalties u/s 112(a), 117 as well as redemption fine u/s 125(1) on highly disputed issues and that too in absence of any mala-fides since appellant has fulfilled the export obligation and applied for EODC.
- The Ld. AC has erred in recovering interest at the applicable rate on the Custom duty saved.

PERSONAL HEARING:

4. Personal hearing in the matter was held on 10.09.2025 in virtual mode. Ms. R. N. Shah, CA authorised representative, appeared for hearing on behalf of the Appellant. She reiterated the submissions made in the appeal memorandum. She submitted that the application for redemption of the EPCG license was submitted to the Joint Director of DGFT on 24.04.2024.

DISCUSSION & FINDINGS:



5. I have carefully gone through the appeal memorandum as well as records of the case and the submission made on behalf of the Appellant during the course of hearing. The issue to be decided in the present appeal is whether the impugned order passed by the adjudicating authority disallowing the benefit of concessional rate of duty under Notification No. 16/2015 - Cus., dated 01.04.2015, confirming the demand of duty along with interest, confiscating of the Capital goods under Section 111 (o) of the Customs Act, 1962 and imposing penalty upon the Appellant under Sections 112 (a) and 117 of the Customs Act, 1962, in the facts and circumstances of the case, is legal and proper or otherwise.

6. The Appellant has filed the present appeal on 28.10.2024. In the Form C.A.-1, the date of communication of the Order-In-Original dated 05.08.2024 has been

shown as 09.09.2024. Therefore, as per the appellant submission, the appeal has been filed within normal period of 60 days, as stipulated under Section 128 (1) of the Customs Act, 1962.

6.1 The Appellant has submitted copy of the T.R.6 Challan No. 47/24-25 dt. 04.10.2024 for Rs. 87,370/- towards payment of pre-deposit calculated @ 7.5% of the disputed amount of Customs duty of Rs. 11,64,917/- under the provisions of Section 129E of the Customs Act, 1962. As the appeal has been filed within the stipulated time-limit and complies with the requirement of Section 129E of the Customs Act, 1962, the appeals has been admitted and being taken up for disposal on merits.

6.2 Copy of appeal memorandum and its enclosures received from the appellant vide letter dt. 24.10.2024 have been forwarded to the adjudicating authority i.e the Additional Commissioner, Customs, Althan, Surat vide letter dt. 11.11.2024 calling comments and necessary information/ details. However, till date no reply have been received in the matter.

7. The appellant, in the memorandum of appeal and written submissions, has contended that the adjudicating authority failed to observe the principles of natural justice, inasmuch as no opportunity of personal hearing or to present his case was afforded to him prior to the passing of the impugned order.

In this regard, on perusal of the impugned order, it is observed that personal hearing in the matter was given to the appellant on 24.06.2024, 04.07.2024 and 11.07.2024 to represent their case before the adjudicating authority. However, neither the appellant nor any of their representatives have appeared for hearing on stipulated dates. Also, no communication, whatsoever, has been received from the appellant in the matter.

8. It is observed that the Appellant had imported Capital Goods machinery, i.e. 04 sets of Multi Head Computerised Embroidery Machine under EPCG Licence No.: 5230018813, dated 10.12.2015 by saving Customs Duty amount of Rs. 11,55,041/- (Actual Duty Utilization of Rs. 11,64,917/-) under the cover of the Bill of Entry by availing Zero rate of duty benefit of exemption available under Notification No. : 16/2015 - Cus., dated 01.04.2015 as per the details mentioned at Table – I above.


The Appellant was required to fulfill the export obligation within a period of Six years from the date of issuance of EPCG Licence in terms of the conditions laid down in the Notification and in the EPCG Licence itself. However, the Appellant appeared to have failed to fulfill the conditions laid down under Notification No. 16/2015 - Cus., dated 01.04.2015 inasmuch as they failed to fulfill export obligations against the goods imported by using the aforesaid EPCG Licence. The Appellant neither produced the EODC issued by the DGFT, Surat nor could produce any documents showing extension granted to them for fulfilment of export obligation. Therefore, the Appellant appeared liable to pay Customs Duty not paid (i.e. saved) by them amounting to Rs.11,64,917/- at the time of

import / clearance along with interest at the applicable rate, in terms of conditions of the said Notification read with condition of the Bond executed by them read with Section 143 of the Customs Act, 1962. Accordingly, a Show Cause Notice was issued, which was adjudicated vide the impugned order, disallowing the benefit of concessional rate of duty under Notification No. 16/2015-Cus., dated 01.04.2015, confirming the demand of Customs duty along with interest, confiscating the goods under Section 111 (o) of the Customs Act, 1962 and imposing penalties upon the Appellant under Sections 112 (a) (ii) and Section 117 of the Customs Act, 1962.

9. It is observed that the appellant in his appeal memorandum dt. 24.10.2024 submitted that they had fulfilled entire export obligation on 15.05.2018 and the application for the redemption of EPFG license was made to the JT. DGFT, Surat on 24.04.2024. The Advocate of the Appellant vide their letter dated 16.10.2025 through mail has submitted a copy of the EODC / REDEMPTION Letter dt. 15.10.2025 against EPCG license issued by the Joint Director, DGFT, Surat towards the fulfilment of the export obligation in respect of the EPCG License No. 5230018813, dated 10.12.2015. However, it is observed that these facts have been brought before the appellate authority for the first time and the adjudicating authority had no occasion to consider the same. Hence, the veracity of the EODC in respect of the EPCG License No. 5230018813, dated 10.12.2015 needs verification from the original case records. The appellant is also requested to approach and contact the adjudicating authority for submission of a copy of the EODC/Redemption Letter dated 15.10.2025, issued by the Joint Director, DGFT, Surat, towards fulfillment of the export obligation in respect of EPCG Licence No. 5230018813 dated 10.12.2015, so that the present matter can be disposed of expeditiously and in a positive manner.

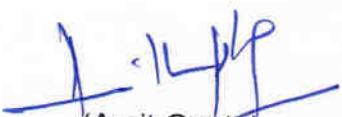
10. In view of the above, I find that remitting the present appeal to adjudicating authority for passing fresh order, after taking the submissions made by the Appellant in the present appeal on record, and pass fresh order after examining the EODC in respect of the EPCG License No. 5230018813, dated 10.12.2015, has become sine qua non to meet the ends of justice. Accordingly, the case is 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 Bombay High Court 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.



11. In view of above, I set aside the impugned order and allow the appeal filed by the Appellant by way of remand to the adjudicating authority for passing fresh orders after considering the submissions made by the Appellant in the present appeal on record. The Adjudicating Authority shall examine the available facts, documents, submissions and issue speaking order afresh following principles of natural justice and legal provisions.

12. The appeal preferred by the Appellant is allowed by way of remand.




(Amit Gupta)
Commissioner (Appeals),
Customs, Ahmedabad

F. No. S/49-199/CUS/AHD/2024-25

Date: 06.11.2025

By Speed Post.

M/s. Nilkanth Creation (Prop. Shri Jerambhai Miyan),
49-50, 13-14, 2nd Floor, Ishwar Moti Ind. Society,
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Copy to:

1. The Chief Commissioner of Customs Gujarat, Custom House, Ahmedabad.
(email: ccoaahm-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, Surat. (email: adjcus-surat@gov.in cus-ahmd-adj@gov.in) .
4. The Deputy/Assistant Commissioner of Customs, ICD-Sachin, Surat. (icd-sachin@gov.in)
5. Shri Ishwar Jivani, C.A., (irjivani87@gmail.com info@vcas.co)
6. Guard File.