



सीमाशुल्क (अपील) आयुक्तका कार्यालय, अहमदाबाद

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD,
चौथीमंजिल 4th Floor, हडको बिल्डिंग HUDCO Building, ईश्वर भुवन रोड Ishwar Bhuvan Road,
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DIN-20250971MN0000555ECC

क	फ़ाइल संख्या FILE NO.	S/49-23/CA-2/CUS/AHD/2024-25 and S/49-05 to 22, 24, 27, 28/CA-2/CUS/AHD/ 2024-25 (total 22 appeals)
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- 219 to 240-25-26
ग	पारितकर्ता PASSED BY	SHRI AMIT GUPTA Commissioner of Customs (Appeals), AHMEDABAD
घ	दिनांक DATE	11.09.2025
ड	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER - IN - ORIGINAL NO.	O.I.O. Nos. 02 to 23/AC/SRT/REFUND/2024 passed in July & August, 2024 by the Assistant Commissioner of Customs, Division Surat. (total 22 Orders)
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	11.09.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT/RESPONDENT:	Appellant: The Assistant Commissioner of Customs, Customs Division Surat. Respondent: M/s. Reliance Industries Ltd., Village - Mora, Post - Bhatha, Surat Hazira Road, Surat – 394510.

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 (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 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 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 (यथासंशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्षके अधीन आता है में रु. 200/- (रूपए दो सौ मात्र) या रु.1000/- (रूपए एक हजार 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 राशि और 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 those 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>सीमाशुल्क, केंद्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ</p> <p>दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016</p>	<p>Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench</p> <p>2nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016</p>
5.	<p>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-</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>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 हजार रुपए.</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>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; पाँच हजार रुपए</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>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 हजार रुपए.</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>	
(घ)	<p>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 के 10 % अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा।</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>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.</p> <p>Under section 129 (a) of the said Act, every application made before the Appellate Tribunal-</p> <p>(a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or</p> <p>(b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.</p>	



ORDER-IN-APPEAL

1. The Assistant Commissioner of Customs, Customs Division, Surat, has filed the present 22 appeals under Section 129D(4) of the Customs Act, 1962, on the basis of Authorization issued by the Principal Commissioner of Customs, Ahmedabad, to file appeals against the Orders-In-Original No. 02 to 23/AC/SRT/REFUND/2024 passed during the months of July & August, 2024 (hereinafter referred to as the 'impugned orders') by the Assistant Commissioner of Customs, Customs Division, Surat (hereinafter referred to as the 'appellant' as well as 'adjudicating authority'). The only issue involved in all these 22 appeals is that the impugned orders have been passed by the Assistant Commissioner, Customs Division, Surat, who is not jurisdictional authority to pass these orders, but the Assistant Commissioner of Customs, Customs House, Surat, is the proper jurisdictional authority to pass these orders.

2. Facts involved in the appeal, in brief, are that M/s. Reliance Industries Ltd., Village - Mora, Post - Bhatha, Surat Hazira Road, Surat - 394510 (hereinafter referred to as 'the respondent' or 'the importer' or 'M/s. RIL') had imported Liquified Natural Gas ('LNG' for short) falling under Customs Tariff Item 27111100. The Bills of Entry were assessed provisionally on the basis of Bill of Lading quantity under the provisions of Section 18 of the Customs Act, 1962, because some documents like final invoice, test report etc. were not available. Later, on submission of required documents, the assessments of Bills of Entry have been finalized on the basis of Delivery Ex-Ship ('DES') quantity. As the DES quantity unloaded was lower than Bill of Lading quantity and the final invoice value was lesser than the provisional invoice value, the duty finally assessed was found to be less than the duty provisionally assessed. So, the respondent importer has filed refund claims for differential duty along with required documents.

3. In the impugned orders, the adjudicating authority has inter alia observed that the final quantity of LNG unloaded was less than the quantity declared at the time of provisional assessment and so, the duty payable was reduced at the time of final assessment. He further observed that the refund of duty, Bill of Entry, T.R.6 Challan (E-Receipt) and duty payment particulars etc. have been verified and found in order. On the basis of Declaration, Ledger and Certificate of Chartered Accountant, the adjudicating authority observed that the importer has not passed on the incidence of duty (claimed as refund) to buyers and the unjust enrichment has been ruled out. Thus, after examining all the aspects, the adjudicating authority has sanctioned the refund of differential duty to the respondent on account of finalization of provisional assessment.





4. During review of the impugned order under the provisions of Section 129D(2) of the Customs Act, 1962, the reviewing authority was of the view that the impugned order is not proper and legal and therefore, he authorised the Deputy/Assistant Commissioner of Customs, Surat Division, to apply to the Appellate Authority, i.e. Commissioner of Customs (Appeals), with request to set aside the impugned order and remand back the matter or to pass any other order(s), as deem fit.

5. Being aggrieved by the impugned orders to the extent they have been passed by the Assistant Commissioner, who has no jurisdiction over the port of import, the Customs Department has filed the following appeals:

Table-1

Sr. No.	Appeal No. / F.No. S/49-.../CA-2/ CUS/AHD/24-25			O.I.O. No. .../AC/SRT/REFUND/2024		O.I.O. Dated	Amount of Refund (Rs.)
1	S/49-	5	/CA-2/24-25	21	/AC/SRT/REFUND/2024	26.07.2024	4,55,438
2	S/49-	6	/CA-2/24-25	14	/AC/SRT/REFUND/2024	25.07.2024	24,33,349
3	S/49-	7	/CA-2/24-25	12	/AC/SRT/REFUND/2024	24.07.2024	27,76,150
4	S/49-	8	/CA-2/24-25	10	/AC/SRT/REFUND/2024	16.07.2024	26,75,237
5	S/49-	9	/CA-2/24-25	9	/AC/SRT/REFUND/2024	16.07.2024	31,52,431
6	S/49-	10	/CA-2/24-25	8	/AC/SRT/REFUND/2024	16.07.2024	49,54,139
7	S/49-	11	/CA-2/24-25	7	/AC/SRT/REFUND/2024	16.07.2024	26,37,698
8	S/49-	12	/CA-2/24-25	6	/AC/SRT/REFUND/2024	11.07.2024	3,15,817
9	S/49-	13	/CA-2/24-25	5	/AC/SRT/REFUND/2024	11.07.2024	4,83,290
10	S/49-	14	/CA-2/24-25	4	/AC/SRT/REFUND/2024	09.07.2024	2,52,666
11	S/49-	15	/CA-2/24-25	20	/AC/SRT/REFUND/2024	26.07.2024	2,24,865
12	S/49-	16	/CA-2/24-25	19	/AC/SRT/REFUND/2024	26.07.2024	14,748
13	S/49-	17	/CA-2/24-25	18	/AC/SRT/REFUND/2024	26.07.2024	24,11,302
14	S/49-	18	/CA-2/24-25	17	/AC/SRT/REFUND/2024	26.07.2024	6,84,257
15	S/49-	19	/CA-2/24-25	16	/AC/SRT/REFUND/2024	25.07.2024	21,89,366
16	S/49-	20	/CA-2/24-25	15	/AC/SRT/REFUND/2024	25.07.2024	7,24,851
17	S/49-	21	/CA-2/24-25	13	/AC/SRT/REFUND/2024	25.07.2024	28,96,988
18	S/49-	22	/CA-2/24-25	11	/AC/SRT/REFUND/2024	24.07.2024	26,28,826
19	S/49-	23	/CA-2/24-25	2	/AC/SRT/REFUND/2024	09.07.2024	6,01,403
20	S/49-	24	/CA-2/24-25	3	/AC/SRT/REFUND/2024	09.07.2024	11,560
21	S/49-	27	/CA-2/24-25	22	/AC/SRT/REFUND/2024	09.08.2024	59,15,785
22	S/49-	28	/CA-2/24-25	23	/AC/SRT/REFUND/2024	09.08.2024	1,52,21,452



6. As all the twenty-two appeals have been filed on similar grounds, the Grounds of Appeal in respect of O.I.O. No. 02/AC/SRT/Refund/2024 dated 09.07.2024 (Appeal No. S/49-23/CUS/AHD/2024-25) are reproduced below:

Grounds of Appeal

7. The Assistant Commissioner, Customs Division Surat, has sanctioned the refund order of Rs. 6,01,403/- without jurisdiction. The competent authority to sanction/process the subject refund application is Assistant Commissioner, Customs House Surat, as specified in Establishment Order No. 12 dated 05.06.2023 and has contravened the provisions outlined in the Customs Refund Application (Form) Regulations, 1995, as specified in Notification No. 34/1995-CUS (N.T.) dated 26.05.1995, and subsequently amended by Notification No. 29/1999-Cus. (N.T.) dated 11.05.1999.

8. The Customs Refund Application (Form) Regulations, 1995 state:

In exercise of the powers conferred by sub-section (1) of section 157, read with clause (aa) of sub-section (2) of the said section of the Customs Act, 1962 (52 of 1962), hereinafter referred to as the Act, and in supersession of the Customs Application (Form) Regulations, 1991, except as respect things done or omitted to be done before such supersession, the Central Board of Excise and Customs hereby makes the following regulations, namely:-

1. Short title and commencement-

(1) These regulations may be called the Customs Refund Application (Form) Regulations, 1995.

(2) They shall come into force with effect from the date of their publication in the Official Gazette

2. Form and manner of filing application for refund. -

(1) An application for refund shall be made in the prescribed Form appended to these regulations in duplicate to the Assistant Commissioner of Customs or Deputy Commissioner of Customs, having jurisdiction over the Customs port, Customs airport, land customs station or the warehouse where the duty of customs was paid.



(2) The application shall be scrutinised for its completeness by the Proper Officer and if the application is found to be complete in all respects, the applicant shall be issued an acknowledgement by the Proper Officer in the prescribed Form appended to these regulations within ten working days of the receipt of the application.

(3) Where on scrutiny, however, the application is found to be incomplete, the Proper Officer shall, within ten working days of its receipt, return the application to the applicant, pointing out the deficiencies. The applicant may resubmit the application after making good the deficiencies, for scrutiny. Explanation.- For the purposes of payment of interest under section 27A of the Act, the application shall be deemed to have been received on the date on which a complete application, as acknowledged by the Proper Officer, has been made.

9. The subject refund which has arisen after finalisation of Bill of Entry No. 4864318 dated 19.01.2018 has been sanctioned by incompetent authority, namely Assistant Commissioner, Customs Division Surat who is not the jurisdictional port authority. The subject BOE was finalised by AC, CH, Surat. The Bill of Entry was filed at Magdalla Port which falls under the jurisdiction of CH Surat, as specified in Establishment Order No. 12/2023 dated 05.06.2023 issued by the Additional Commissioner of Customs, Ahmedabad. However, the refund has been processed by the Adjudicating Authority from Surat Division. Consequently, the refund sanctioned does not comply with the provisions outlined in the Customs Refund Application (Form) Regulations, 1995.

10. In light of the foregoing, the appellant contended that the Order-in-Original issued by the Assistant Commissioner, Surat Division, Customs Surat, is legally flawed and unsustainable, and thus, it is liable to be set aside.

Response from the Respondent, viz. M/s. Reliance Industries Ltd.

11. The respondent, vide email dated 10.09.2025 submitted following submissions in respect of these appeals filed by Customs Department:

11.1 The Department in their grounds of appeal have stated that the Assistant Commissioner of Customs, Customs Division, Surat, who sanctioned the refund by passing 22 Orders-in-Original Nos. 02 to 23/ AC/SRT/ REFUND/2024, was not the competent authority to do so.



11.2 The appeals have been filed by the Department on the ground that in respect of the goods imported at Port Magdalla, the Assistant Commissioner of Customs, Custom House, Surat is the proper officer to sanction the refund in view of **Establishment Order No.12/2023 dated 5-6-2023**, by which jurisdiction over Magdalla Port has been conferred on the Assistant Commissioner of Customs, Custom House, Surat. It is accordingly contended that Assistant Commissioner, Customs Division, Surat had no jurisdiction in the matter. A copy of the said Establishment Order No.12/2023 dated 5-6-2023 is annexed hereto as Annexure I.

11.3 The Respondents submit that the Ground of Appeal in department's Appeals completely overlooks the fact that the **same officer - Assistant Commissioner, has been given the charge of both viz. Assistant Commissioner of Customs, Custom House, Surat as well as Assistant Commissioner of Customs, Customs Division, Surat, by the said Establishment Order**. Therefore, the officer/Assistant Commissioner, who has passed the Orders-in-Original sanctioning the refund, was also having charge as Assistant Commissioner of Customs, Custom House. He therefore, had jurisdiction over Magdalla Port and was therefore competent to sanction the refund in case of goods imported at Magdalla Port. Merely because in the Orders passed by him, he is referred to as Assistant Commissioner of Customs, Customs Division, Surat, that will not make his Orders as being without jurisdiction, since admittedly he was also Assistant Commissioner of Customs, Custom House, Surat and therefore had jurisdiction to sanction the refund in respect of goods imported at Magdalla Port.

11.4 Significantly, the department's appeal does not contend that the refund granted to the Respondents upon finalization of the Bills of Entry is not due to the Respondents. Neither the finalization of the Bills of Entry nor the amount of refund arising therefrom nor entitlement of the Respondent to the same is contested in the appeals filed by the department. The prayer in the appeal is to remand the matter back for the refund to be sanctioned by the Assistant Commissioner of Customs, Custom House, Surat instead of Assistant Commissioner of Customs, Customs Division, Surat. This is unnecessary and the ends of justice will be met, if a Corrigendum to the Refund sanctioning Orders is issued under Section 154 of the Customs Act 1962 correcting the error of referring to the Assistant Commissioner as of Customs Division, Surat, instead of Assistant Commissioner of Custom House, Surat, such error being no more than an accidental slip, since it is not in dispute that the same officer/Assistant Commissioner was having dual charge as Assistant



Commissioner, Custom House, Surat as well as Assistant Commissioner, Customs Division, Surat.

11.5 In view of the above submissions, the Respondent has requested to reject the appeals filed Customs Department.

Personal Hearing

12. Personal Hearing in this matter was held on 10.09.2025 by virtual mode, i.e. through video conference, which has been attended by Shri. J. C. Patel, Advocate, Shri. D. N. Dheer, V.P. and Shri. P. N. Choudhary, Head-Indirect Tax, on behalf of the respondent company. They reiterated the submissions send by them vide email dated 10.09.2025, as mentioned hereinabove.

Findings:

13. I have carefully gone through the impugned orders and written submissions made by the appellant i.e. Assistant Commissioner of Customs, Customs Division Surat, in the Appeal Memorandums submitted with Form No. C.A.-2. I have also gone through the written as well as oral submissions made by / on behalf of the respondent company. The identical issue to be decided in the present twenty-two appeals is that whether the impugned refund orders passed by the Assistant Commissioner of Customs, Division Surat, can be set aside due to the only reason that he has no jurisdiction over the port of import viz. Magdalla Port, but the Assistant Commissioner, Customs House, Surat, is having jurisdiction over that port and so, he is the competent authority to decide the refund claims.

14. I find that as per the provisions of Section 27(2) of the Customs Act, 1962, the Deputy/Assistant Commissioner of Customs is empowered to make order of refund. In the present case, undisputedly the refund orders have been passed by the Assistant Commissioner of Customs. Therefore, there is no contravention of the Act on part of the adjudicating authority. The only irregularity mentioned in the grounds of appeal is regarding contravention of Regulation 2(1) of the Customs Refund Application (Form) Regulation, 1995. In the said Regulation, it has been prescribed that the application for refund shall be made to the Assistant / Deputy Commissioner of Customs, having jurisdiction over the Customs port. Whereas, it has been contended by appellant Customs Department that the adjudicating authority has no jurisdiction over the Customs port of import.



15. I have seen the Establishment Order No. 12/2023 dated 05.06.2023 issued by the Additional Commissioner of Customs, Ahmedabad, regarding transfer and posting in the grade of Deputy/Assistant Commissioners in Customs Commissionerate, Ahmedabad. As per Sr.No. 12 of the Table given in the said Establishment Order, Shri. Sachin Ravindra Dalvi, Assistant Commissioner was transferred to "**CH-Surat (Magdalla Port), Hira Bourse-Surat, ICD-Sachin, SIIB-Surat, International Airport-Surat, Customs Division-Surat, EPC-Surat**" (emphasis supplied). Thus, I find that Shri Sachin Dalvi, Assistant Commissioner, was holding charge of Customs House Surat (Magdalla Port) as well as Customs Division-Surat. As he was holding charge of both formations, it cannot be said that he had no jurisdiction over Magdalla Port. Therefore, the only procedural mistake remains in the impugned 22 orders is that they refer the name of formation as 'Customs Division Surat' instead of 'Customs House Surat'. I find that such procedural error in mentioning the name of wrong formation (i.e. Customs Division Surat) instead of the correct formation (i.e. Custom House Surat) cannot result in denial of statutory refund particularly when all issues have been examined by the competent officer and no objection or ground has been raised in any of 22 appeals regarding admissibility of refund.

16. Further, I find that Section 157(1) of the Customs Act, 1962, prescribes that the Board has power to make regulations consistent with the Act and Rules, generally to carry out the purposes of the Act. The Customs Refund Application (Form) Regulation, 1995, have been notified in exercise of powers conferred by Section 157(1) read with Section 157(2)(aa) of the Customs Act, 1962. Clause (aa) of Section 157(2) states that the Regulations may provide for the form and manner in which an application for refund shall be made under Section 27. In nutshell, the regulations mentioned in the grounds of appeal are of procedural nature, which cannot override the statutory provisions regarding eligibility refund as prescribed under Section 18 and Section 27 of the Customs Act, 1962.

17. Further, I also find that the refund claims have been cleared from Pre-Audit by Customs, Ahmedabad, which has been mentioned in the impugned orders. Thus, there is no doubt or dispute regarding quantification or admissibility of the refund sanctioned by the adjudicating authority to the respondent by the impugned orders. No contention/argument regarding quantification or admissibility of refund to the respondent has been raised in any of the twenty-two appeals filed by Customs Department. Therefore, I am of the view that the issue raised by the Customs Department regarding violation of Regulation 2(1) of the Customs Refund Application (Form) Regulation, 1995, should be treated as procedural lapse, for which the substantial statutory right of refund, as prescribed under Section 18 and



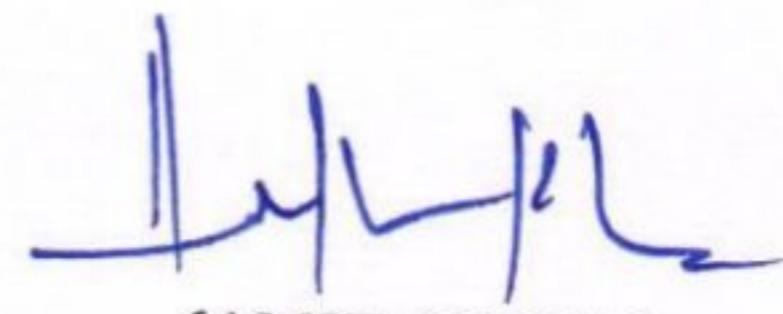
27 of the Customs Act, 1962, cannot be denied, particularly when the same Assistant Commissioner of Customs was holding charges of both formations viz. 'Customs Division Surat' and 'Custom House Surat'.

18. In view of the above discussion and findings, I am of the view that the impugned orders to the extent they show the name of Customs formation as 'Customs Division Surat' should be modified by replacing the name of the correct formation as 'Custom House Surat', particularly they have been passed by the competent authority i.e. Assistant Commissioner, who was holding charge of both Customs formations. Accordingly, I pass the following order:

Order:

19. In exercise of the powers conferred under the provisions of Section 128A(3)(a) of the Customs Act, 1962, I hereby modify the impugned 22 orders passed by the 'Assistant Commissioner of Customs, Division Surat', as having passed by the 'Assistant Commissioner of Customs, Custom House, Surat'. Consequently, the 22 appeals filed by the Assistant Commissioner of Customs, Division Surat, as mentioned in the above Table-1, are disposed of in above terms.




(AMIT GUPTA)
Commissioner (Appeals)
Customs, Ahmedabad

F.Nos. S/49-23/CA-2/CUS/AHD/2024-25 and
S/49-05 to 22, 24, 27, 28/CA-2/CUS/AHD/2024-25 (total 22 appeals)

Date: 11.09.2025

By e-mail [As per Section 153(1)(c) of the Customs Act, 1962]

To

(1) The Assistant Commissioner of Customs,
Customs Division Surat,
Custom House, Althan Bhimrad Road, Althan,
Surat - 395007.
(By email: custech.surat@gov.in)

(2) M/s. Reliance Industries Ltd.,
Village – Mora, Post – Bhatha,
Surat Hazira Road, Surat – 394510.
(By email: prem3choudhary@ril.com , D.Dheer@ril.com, info@ril.com)

Copy to:

1. The Chief Commissioner of Customs, Ahmedabad Zone, Customs House, Ahmedabad. (email: ccohm-guj@nic.in)
2. The Pr. Commissioner of Customs, Ahmedabad. (email: cus-ahmd-guj@nic.in , rra-customsahd@gov.in)
3. Shri. J. C. Patel, Advocate (email: jydpptl@yahoo.com)
4. Guard File.

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