



सीमा शुल्क (अपील) आयुक्त का कार्यालय,

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), अहमदाबाद AHMEDABAD,  
चौथी मंज़िल 4th Floor, हुडको बिल्डिंग HUDCO Building, ईश्वर भुवन रोड Ishwar Bhuvan Road,  
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009  
दूरभाष क्रमांक Tel. No. 079-26589281  
DIN- 20250971MN0000121647

क	फाइलसंख्या FILE NO.	S/49-153/CUS/MUN/2024-25
ख	अपील आदेश संख्या ORDER-IN-APPEAL No. ( सीमा शुल्क अधिनियम, 1962 की धारा 128 क के अंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	MUN-CUSTM-000-APP-173-25-26
ग	पारितकर्ता PASSED BY	SHRI AMIT GUPTA Commissioner of Customs (Appeals), AHMEDABAD
घ	दिनांक DATE	01.09.2025
ड	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN- ORIGINAL NO.	MCH/114/AC/KRP/REF/2024-25 dated 09.08.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	01.09.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s Chirag Enterprise, Plot No. 2 to 8, R.S. No.: 235, Village-Lakhabavad, 361 006, Jamnagar .
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 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.	
	लिखित 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.	<p>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 :</p> <p>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 :</p> <p>(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.</p> <p>(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.</p> <p>(ख) सम्बद्ध दस्तावेजों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो</p> <p>(b) 4 copies of the Order-in-Original, in addition to relevant documents, if any</p> <p>(ग) पुनरीक्षण के लिए आवेदन की 4 प्रतियां</p> <p>(c) 4 copies of the Application for Revision.</p> <p>(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 दो प्रतियां। यदि शुल्क, मांगा गया व्याज, 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/-</p> <p>(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/-.</p>				
4.	<p>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</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, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ</td> <td>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</td> </tr> <tr> <td>दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016</td> <td>2<sup>nd</sup> Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016</td> </tr> </table>	सीमाशुल्क, केन्द्रीय 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 <sup>nd</sup> Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
सीमाशुल्क, केन्द्रीय 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 <sup>nd</sup> Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016				
5.	सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-				



	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -
(क)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हजार रुपए।
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;
(ख)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक है लेकिन रुपये पचास लाख से अधिक न हो तो, पांच हजार रुपए
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;
(ग)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हजार रुपए।
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees
(घ)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के 10 % अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के 10 % अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा।
(d)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.
6.	उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए 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 Chirag Enterprise, Plot No. 2 to 8, R.S. No.: 235, Village-Lakhabavad, 361 006, Jamnagar (hereinafter referred to as "the appellant") have filed the present appeal in terms of Section 128 of the Customs Act, 1962 against Order-in-Original No. MCH/114/AC/KRP/REF/2024-25 dated 09.08.2024 (hereinafter referred to as "the impugned order") issued by the Assistant Commissioner, Refund, Customs House-Mundra (hereinafter referred to as "the adjudicating authority").

2. Briefly stated, the facts of the case are that the appellant filed a total of 68 Bills of entry for the clearances of imported goods viz., Acrylic Plastic Strips, Acrylic Plastic Off cut, Mix Lot of Acrylic Plastic Sheets and Cut. These Bills of entry were reassessed, and value of the goods was enhanced by the Proper Officer. However, no speaking order was issued, and the enhancement of value was carried out arbitrarily, without assigning any reasons and without adhering to the provisions of Section 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Aggrieved by this, the appellant filed an appeal before the Commissioner (Appeals), who, vide OIA dated 27.09.2016, remanded the appeal No.s 555/2015 to 565/2015, 644/2015 to 660/2015, 45/2016, 48/2016 to 68/2016 and 109/2016 to 123/2016 (pertains to 65 Bills of Entry) back to the adjudicating authority for passing a speaking order. He rejected three appeal Nos 566/2015, 46/2016 and 47/2016 related to the 3 Bills of Entry on the grounds on limitation as provided under Section 128 of the Customs Act, 1962.

2.1 In the first remand proceedings, the adjudicating authority, vide OIO dated 04.08.2022, rejected the value declared by the appellant and upheld the enhancement of the declared value. Being aggrieved, the appellant filed an appeal against the said OIO before the Customs (Appeals), who, vide OIA dated 23.04.2024, set aside the impugned OIO and allowed the appeal with consequential relief.

2.2 In the second remand proceedings, the adjudicating authority, vide OIO No. MCH/114/AC/KRP/REF/2024-25 dated 09.08.2024, accepted the value declared by the appellant in the above-mentioned 65 Bills of Entry and sanctioned a refund of the excess duty paid. However, the appellant, being dissatisfied with the said Order-in-Original on the ground that no refund of interest was granted, has filed the present appeal.

3. The appellant dissatisfied and aggrieved with the impugned order dt. 09.08.2024, have filed the present appeal and mainly contended that;

- Denial of interest on the refund amount from the date of payment till the date of actual refund to the appellant is untenable in law.
- The appellant was forced to pay excess import duties of Rs. 58,27,631/- at the initial assessment because the department arbitrarily increased the value of the consignments. Therefore, the collection of this excess duty was illegal and not authorized by law.
- The appellant further submits that during the appellate proceedings, their position was upheld when the Hon'ble Commissioner (Appeals) ruled that, without any evidence of similar imports, the rejection of the declared value and the application of Rules 4 and 5 of the Customs Valuation Rules, 2007 could not be justified.
- In this case, the department kept and used the appellant's money for a long time and is therefore liable to pay interest from the date the excess duty was collected. Accordingly, the impugned order, to the extent it denies interest on the refund amount, is untenable in law.

The appellant rely upon following judicial pronouncements in support of above submissions:

- (i) Vijay Textile V/s Union of India 1979 (4) ELT. (J 181) (Guj),
- (ii) Dilichand Shreelal V/s C.C.E and Others 1986 (26) E.L.T. 298 (Cal.)
- (iii) Binrajka Steel Tubes Ltd. V/s C.C.E., Hyderabad - III 2007 (218) E.L.T. 563 (Tri-Bang).

4. Shri Kamlesh R. Kataria of Sharon Enterprises, Bhandup, Mumbai appeared for personal hearing on 07.08.2025 on behalf of the appellant through virtual mode. He reiterated the submission made in the appeal memorandum.

5. Before going into the merits of the case, I find that from the Form C.A.-1, the date of communication of the Order-In-Original dated 09.08.2024 has been shown as 09.08.2024 and the date of filing Appeal shown as 26.09.2024. I find that the present appeal has been filed within prescribed time limit of 60 days as stipulated under Section 128(1) of the Customs Act, 1962.

5.1 I have gone through the appeal memorandum filed by the appellant and submissions made during personal hearing and documents available on record. It is observed that the appellant had filed 68 Bills of Entry for clearance of goods declared as "Acrylic Plastic Strips", "Acrylic Plastic Off Cut, Mix Lot of Acrylic Plastic Sheets and Cut thereof. The Bills of Entry were re-assessed and the proper officer enhanced the value of the goods declared by the appellant in the Bills of Entry. Being aggrieved with the enhancement of value declared by the appellant in the Bills of Entry, they filed appeals against re assessment of all the 68 Bills of Entry before the Commissioner (Appeals), Customs, Ahmedabad. The Commissioner (Appeals), Customs, Ahmedabad vide Order in Appeal No. MUN-CUSTM-000-APP-242 to 309-16-17, dated 27.09.2016 remitted the appeal Nos 555/2015 to 565/2015, 644/2015 to 660/2015, 45/2016, 48/2016 to 68/2016 and 109/2016 to 123/2016 ( pertains to 65 Bills of Entry ) back to the adjudicating authority for passing a speaking order. He rejected three appeal Nos. 566/2015, 46/2016 and 47/2016 related to the 3 Bills of Entry on the grounds on limitation as provided under Section 128 of the Customs Act, 1962.

In pursuance of the said OIA dt. 27.09.2016, the adjudicating authority passed the OIO No.: MCH/322/AC/NBM/Gr.II/22-23 dt. 04.08.2022 wherein the adjudicating authority rejected the value declared by the importer in the subject 65 nos. of bills of entry and upheld the enhancement of the declared value by the assessing officer. Being aggrieved with impugned order dt. 04.08.2022, the appellant preferred appeal before the Commissioner (Appeals) Customs, Ahmedabad who vide OIA No. MUN-CUSTM-000-APP-014-24-25 dated 23-04-2024, set aside the impugned order and allowed the appeal filed by the appellant with consequential relief. Consequently, the adjudicating authority vide impugned order dt. 09.08.2024 has sanctioned the refund claim amount of Rs 21,24,164/- under Section 27 of the Customs Act, 1962. There is no dispute on the amount refunded.

5.2 It is observed that the appellant contested that the adjudicating authority has not granted any interest on the refund sanctioned. Therefore, the issue to be decided in the present appeal is whether the impugned order passed by the adjudicating authority not sanctioning interest on refund amount sanctioned, in the facts and circumstances of the case, is legal and proper or otherwise.

5.3 It is observed from the documents submitted by the appellant that the request was made to the Refund Section vide letter dt. 13.06.2024 to grant refund



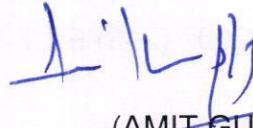

alongwith appropriate interest. The appellant in his appeal memorandum has submitted case laws in support of refund of interest viz. Vijay Textile V/s Union of India 1979 (4) ELT. (J 181) (Guj), Dilichand Shreelal V/s C.C.E and Others 1986 (26) E.L.T. 298 (Cal.) and Binjrajka Steel Tubes Ltd. V/s C.C.E., Hyderabad - III 2007 (218) E.LT. 563 (Tri-Bang).

5.4 A copy of appeal memorandum submitted by the appellant was forwarded to the adjudicating authority, Custom House, Mundra vide letter dated 13.11.2024 for submitting their comments on the grounds of appeal raised by the appellant and for submission of decisions of court of law/CESTAT on the similar matter. However, no reply was received in the matter from the adjudicating authority.

5.5 It is observed that the adjudicating authority has vide impugned order sanctioned the refund of the excess duty paid. The appellant have in appeal memorandum submitted that they have not received interest on the refund sanctioned vide impugned orders. It is observed from the impugned order that there is no discussion on the issue of interest on refund amount sanctioned. It is observed from the copy of letter submitted for claiming refund enclosed in appeal memorandum that the appellant had claimed interest on the refund. It is observed from the impugned order that the adjudicating authority has neither considered the appellant's submission regarding claim of interest, nor given any finding for not considering the same in the impugned order. Hence, the impugned order is non-speaking order so far as it does not deal with the appellant's claim for interest on refund. Hence, I find it appropriate to remand back to the adjudicating authority for considering the submissions regarding claim of interest made by the appellant. Accordingly, the matter is remanded back to the adjudicating authority for considering the request of interest made by the appellant and pass a speaking order by following the principles of natural justice in terms of sub-section (3) of Section 128A of the Customs Act, 1962. 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 P. Ltd. [ 2012-TIOL-1317-CESTAT-DEL] and the case of Hawkins Cookers Ltd. [2012 (284) E.L.T. 677(Tri. – Del)] wherein it was held that Commissioner (Appeals) has power to remand the case under Section-35A(3) of the Central Excise Act, 1944 and Section-128A(3) of the Customs Act,

1962. The adjudicating authority, while passing the order in remand proceedings, shall also consider the submissions made in the present appeal and pass speaking order after following principles of natural justice.

6. Accordingly, the appeal of the appellant is allowed by way of remand

  
 (AMIT GUPTA)  
 Commissioner (Appeals)  
 Customs, Ahmedabad

F.No.: S/49-153/CUS/MUN/2024-25

Dt:01.09.2025

By Registered Post A.D.

To,  
 M/s Chirag Enterprise,  
 Plot No. 2 to 8, R.S. No.: 235,  
 Village-Lakhabavad, 361 006,  
 Jamnagar .



Copy to :-

1. The Chief Commissioner of Customs, Ahmedabad zone, Custom House, Ahmedabad.
2. The Pr. Commissioner of Customs, Custom House, Mundra
3. The Deputy/Assistant Commissioner of Customs (Refund), Custom House, Mundra
4. Guard File.