



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 रोड़ **Ishwar Bhuvan Road**
नवरंगपुरा **Navrangpura**, अहमदाबाद **Ahmedabad - 380 009**
दूरभाष क्रमांक **Tel. No. 079-26589281**

DIN - 20260171MN000000A248

क	फ़ाइल संख्या FILE NO.	S/49-225/CUS/MUN/2023-24
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)	MUN-CUSTM-000-APP-629-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	01.01.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	MCH/ADC/MK/206/2023-24 dated 01.11.2023
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	01.01.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s Sidd International, Basement floor, Property No. 68, Pocket N, Sector 5 , DSIIDC Bawana Ind Complex, near Plastic Factory Bawana Ind Area, New Delhi-110039



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 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 exported
(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 (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 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 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, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ
	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench
	दूसरी मंज़िल, 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)	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 हज़ार रूपए.
(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 हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच हज़ार रूपए
(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 हज़ार रूपए.
(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 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

Appeal has been filed by M/s Sidd International, Basement floor, Property No. 68, Pocket N, Sector 5, DSIIDC Bawana Ind Complex, near Plastic Factory, Bawana Ind Area, New Delhi-110039, (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original No. MCH/ADC/MK/206/2023-24 dated 01.11.2023 (hereinafter referred to as 'the impugned order') by the Additional Commissioner, Customs, Mundra.

2. Facts of the case, in brief, are that the Appellant filed Bills of Entry No. 4973917 dated 07.08.2021, 5147752 dated 22.08.2021 and 5147788 dated 22.08.2021 (hereinafter referred to as the said Bills of Entry' for the sake of brevity) through their CHA M/s Freight Link Logistics (AEXPM7049ECH003) for import of "Polyester Knitted Bonded Fabric". Details of the Bills of Entry are as under: The following table:

Bill of Entry No. & Date	Qty. (Kgs)	Declared CTH	Declared Description	Ass. Value (in Rs.)	Duty declared (in Rs.)
4973917 dated 07.08.2021	12616	60063400	Polyester knitted fabric	1580898	444233
5147752 dated 22.08.2021	21310	60063400	Polyester knitted Bonded fabric	2564019	720489
5147788 dated 22.08.2021	14195	60063400	Polyester knitted Bonded fabric	1761315	494930
Total	48121			59,06,232/-	16,59,652/-

2.1 Intelligence was gathered to the effect that goods declared under the said Bills of Entry were mis-declared/ mis-classified, therefore, the above Bills of Entry were put up on hold by the SIIB for the examination the goods. The examinations of goods were carried out in presence of Authorized Representative of CHA and representative of CFS, Mundra. The goods pertaining to Bill of Entry

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No. 4973917 dated 07.08.2021 were examined under Panchnama dated 19.08.2021, Bill of Entry No. 5147788 dated 22.08.2021 were examined under Panchnama dated 02.09.2021, Bill of Entry No. 5147752 dated 22.08.2021 were examined under Panchnama dated 03.09.2021, all in presence of representative of CFS, representative of Customs Broker of the Importer & two independent panchas. The goods found during examinations were different type fabric rolls and representative samples were drawn from all the types of fabric rolls.

2.2 During the examination of the goods, it was observed that the quantity of the goods was as per the import documents, however, prima-facie, it appeared that goods have been mis-declared by the importer. Therefore, to ascertain the various properties of the goods such as Nature & Composition, GSM, Woven/Non-Woven/Knitted, CTH as per Customs Tariff, Upholstery Fabric or otherwise, representative samples were drawn from each consignment for the testing purpose. The samples withdrawn during the examination were sent to The Textile Committee, Mumbai for testing purpose. Meanwhile, on the request of the appellant and due to pendency of test results, the goods imported vide the said bills of entry were allowed to release on provisional assessment basis vide letter dated 07.10.2021 on Bond backed with Bank Guarantee.

2.3 The Textile Committee, Mumbai vide their report sent through e-mail dated 29.10.2021 submitted that 'The samples are knitted, Printed & dyed polyester fabric. On-going through the test results received from the Textile Committee, Mumbai, it appeared that in respect of TM No. 43/19.08.2021 the test report shows that the sample is 'Knitted, Printed Dyed Polyester Fabric laminated with PVC coating', and the suggested H S Code by the Textile Committee is 5903.10. It appeared that the goods are classifiable under sub-heading 59031090 of CH-59.

2.3.1 Whereas, in respect of TM No. 44, 45 & 46 all dated 19.08.2021 the Textile Committee has stated that the samples are 'knitted, Printed & dyed polyester fabric which are assembled in layers'. However, the Textile Committee has not suggested HS Code for the samples. On-going through the properties of the goods given by the Textile Committee it appeared that the same are correctly classifiable under CTH 60019200 of Chapter Subheading-6001.

2.3.2 Further, in respect of the TM No. 47/19.08.2021, 48 to 54 all dated 02.09.2021 and 55 to 59 all dated 03.09.2021 the Textile Committee Mumbai



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has stated that the samples are 'knitted, Printed & dyed polyester fabric which are assembled in layers Further, the Textile Committee has suggested the HS Code of the samples as 6001.92. Going through the properties of the goods given by the Textile Committee it appeared that the same can correctly be classifiable under CTH 60019200.

2.4 From the above, it appeared that the goods imported vide Bill of Entry No. 4973917 dated 07.08.2021 are of two types which were correctly classifiable under CTH 59031090 and 60019200. Further, the goods imported vide Bills of Entry No. 5147752 dated 22.08.2021 and 5147788 dated 22.08.2021 are correctly classifiable under CTH 60019200. The importer has mis-declared the imported goods as 'Polyester Knitted Bonded Fabric' declaring the CTH as 60063400. The mis-declaration noticed at the end of the importer after analysis of the test report is conveyed to the importer through their Customs Broker and vide letter dated 09.11.2021 but the importer didn't respond. During the course of investigation, Summons dated 10.12.2021 was issued to the importer for seeking their comments on the test reports received from the Textile Committee Mumbai and to tender statement but the importer didn't appear. Another Summons dated 11.01.2022 was issued to the Importer, in response the importer vide letter dated 20.01.2022 submitted that they could not attend the office due to unavoidable circumstances. Accordingly, third summons was issued to the importer on 24.02.2022. Statement of Shri Gautam Gupta S/o Shri Puran Chand Gupta, Authorized Signatory of M/s. Sidd International was recorded on 23.03.2022; wherein, he stated that they had imported "Polyester Knitted Fabric mix lots" from China and classified the imported goods into Chapter Heading No. 60063400 (other knitted and crocheted fabric). They did not agree with the results of the test reports received in respect of the goods imported under Bill of Entry Nos. 4973917 dated 07.08.2021, 5147788 dated 22.08.2021 and 5147752 dated 22.08.2021 as their imported fabric are not "pile" fabric. They requested to allow them one more chance for re-testing of goods.

2.5 The appellant requested for re-testing made during recording of statement on 23.03.2022 was perused by the Competent Authority and the request for re-testing was rejected on the ground that the Textile Committee is the specialized laboratory for testing of textile articles and moreover, the importer has not given any concrete reason for requirement of re-testing. The importer was informed about the view of the Competent Authority to seek their comments

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vide letter dated 30.06.2022 & 01.11.2022 but the importer didn't respond to the same. From the above, it appeared that the importer had mis-declared the imported goods i.e. 'Polyester Knitted Bonded Fabric' under incorrect CTH-60063400; whereas, the goods imported vide Bill of Entry No. 4973917 dated 07.08.2021 are of two type which were correctly classifiable under CTH 59031090 and 60019200. Further, the goods imported vide Bills of Entry No. 5147752 dated 22.08.2021 and 5147788 dated 22.08.2021 are correctly classifiable under CTH 60019200. The appellant, vide letters dated 30.06.2022 and 01.11.2022, was informed that the re-testing of the goods has been rejected by the competent authority. Further, comments on the same were sought from the said appellant vide said letters but the importer didn't turn up. Further, the Authorised Representative of the appellant in his statement dated 04.04.2022 has stated that he will provide the copy of sales invoices in respect of the impugned goods, but the appellant failed to provide the same, therefore, it appeared that the appellant had made the request for re-testing of the goods without any substantial fact.

2.6 From the above discussion, it appeared that the imported goods covered under the Bill of Entry No. 4973917 dated 07.08.2021 are 'Knitted. Printed Dyed Polyester Fabric laminated with PVC coating' and 'knitted, Printed & dyed polyester fabric which are assembled in layers as per the test report received from the Textile Committee Mumbai and classifiable under CTH 59031090 & CTH 60019200 respectively. Further, from the test report received from the textile committee, it is appeared that the goods covered under 5147752 dated 22.08.2021 and 5147788 dated 22.08.2021 are 'knitted. Printed & dyed polyester fabric which are assembled in layers' and correctly classifiable under CTH 60019200. The goods were mis-declared by the appellant as Polyester Knitted Bonded Fabric at the time of filing of Bill of entry. Further, the mis-declaration has been noticed after the testing of the samples and the same has been conveyed to the importer, though the appellant has not accepted without providing any supporting fact. Therefore, the goods imported vide said Bills of Entry appeared to be liable for confiscation under Section 111(m) of the Customs Act, 1962.

2.7 Accordingly, a Show Cause notice was issued to the Appellant requiring them to show cause as to why:

The Bill of Entry No. 4973917 dated 07.08.2021, should not be re-



assessed as per the appropriate CTH 59031090 & CTH 60019200.

- ii. The Bill of Entry No. 5147752 dated 22.08.2021 and 5147788 dated 22.08.2021 should not be re-assessed as per the appropriate CTH 60019200.
- iii. The goods having assessable value of Rs. 59,06,232/- (Rupees Fifty-Nine Lakh Six Thousand Two Hundred & Thirty-Two only) covered under the Bills of Entry No. 4973917 dated 07.08.2021, 5147752 dated 22.08.2021 and 5147788 dated 22.08.2021 should not be confiscated under the provisions of Section 111(m) of the Customs Act, 1962.
- iv. Penalty should not be imposed on them under Section 112(a) of the Customs Act, 1962.
- v. The differential duty of Rs. 41,45,787/- (Rupees Forty-One Lakh Forty-Five Thousand Seven Hundred and Eighty-Seven only) on the aforesaid imported goods should not be demanded from them under Section 28(4) of the Customs Act, 1962.
- vi. Penalty should not be imposed on the importer under Section 114A of the Customs Act, 1962
- vii. Interest at appropriate rates as provided under Section 28AA of the Customs Act, 1962 should not be levied and recovered from them.

2.8 Consequently, the Adjudicating Authority passed the order as under:

- i. He ordered to re-assess the Bill of Entry No. 4973917 dated 07.08.2021 as per the appropriate CTH 59031090 & CTH 60019200.
- ii. He ordered to re-assess the Bill of Entry No. 5147752 dated 22.08.2021 and 5147788 dated 22.08.2021 as per the appropriate CTH 60019200.
- iii. He ordered to confiscated the goods having assessable value of Rs. 59,06,232/- (Rupees Fifty-Nine Lakh Six Thousand Two Hundred & Thirty-Two only) covered under the Bills of Entry No. 4973917 dated 07.08.2021, 5147752 dated 22.08.2021 and 5147788 dated



22.08.2021 under the provisions of Section 111(m) of the Customs Act, 1962. However, considering facts of the case and provisions of the Section 125 of the Customs Act, 1962, he gave option to re-deem the same on payment of Redemption Fine of Rs. 8,00,000/- (Rs. Eight Lakhs only/-).

- iv. He imposed penalty of Rs. 4,00,000/- (Rs. Four Lakhs only) on the importer under Section 112 (a)(ii) of the Customs Act, 1962.
- v. He refrained from imposing penalty on the importer under Section 114A of the Customs Act, 1962.

SUBMISSIONS OF THE APPELLANT:

3. Being aggrieved with the impugned order, the Appellant has filed the present appeal against the order passed by the Additional Commissioner, Customs, Mundra. The Grounds of Appeal are not reproduced in detail for sake of brevity, as the copy of the same is available with the Appellant as well Respondent. However, the same have been examined and the brief is as under:

3.1 The appellant contends that the impugned order is legally unsustainable due to a fundamental violation of the principles of natural justice. Specifically, they argue that the order was passed without serving a show cause notice (SCN) or providing copies of the documents relied upon by the authorities. Despite the appellant specifically informing the adjudicating authority via a letter dated October 6, 2023, that they had not received any notice or documents, the authority proceeded with the adjudication on November 1, 2023, without granting a personal hearing or addressing the appellant's previous correspondence. The appellant further asserts that the service of notice did not comply with the mandatory modes prescribed under Section 153 of the Customs Act, 1962, as the authorities failed to use alternative methods like email or service to the Customs Broker after postal notices were returned undelivered.

3.2 A major technical ground for the appeal is the rejection of the appellant's request for re-testing the imported goods. The appellant argues that the goods were wrongly classified as "Pile Fabrics" based on a single test report, and they assert that the right to re-test is a natural right supported by both the



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Manual of Revenue Laboratories and settled legal precedents. Furthermore, the appellant challenges the jurisdiction of the Textile Committee or Chemical Examiner to classify goods, arguing that while experts can provide technical characteristics, the authority to classify goods rests solely with the proper officer under Sections 17 and 47 of the Customs Act.

3.3 The appellant also challenges the invocation of penal provisions and the demand of duty under Section 28(4). They argue that because the assessment was originally provisional under Section 18, Section 28 cannot be invoked until that provisional assessment is finalized. The appellant maintains that there was no evidence of misrepresentation or suppression of facts, as the goods were declared based on the supplier's documents. Consequently, they argue that confiscation under Section 111(m) and the imposition of redemption fines or penalties under Section 112 are unjustified, especially since the appellant has already suffered heavy losses due to detention and demurrage charges

PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 16.10.2025, following the principles of natural justice wherein Shri A S Sahota, Consultant, appeared for the hearing in virtual mode and he re-iterated the submissions made at the time of filing the appeal.

DISCUSSION AND FINDINGS:

5. I have carefully gone through the case records, impugned order passed by the Additional Commissioner, Customs, Mundra and the defense put forth by the Appellant in their appeal. The primary issue before me for decision is whether the Impugned Order, passed ex-parte by the Adjudicating Authority, is sustainable in law given the alleged violation of Principles of Natural Justice by the Appellant.

5.1 The Appellant has vehemently contended that the order was passed without an effective Personal Hearing. A perusal of the Impugned Order reveals that it was passed ex-parte. The Adjudicating Authority recorded that the Noticee did not submit a defense reply or appear for the personal hearings, necessitating an ex-parte decision based on available records. The Appellant, however, has

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contended in the Appeal Memo that they did not receive the Show Cause Notice and thus could not file a reply. Furthermore, they claim that the letters fixing the personal hearings were also not received. While the Department proceeded with the Order-in-Original under the assumption of non-compliance/wilful suppression, the denial of receipt of the SCN and hearing notices by the Appellant raises a serious question regarding the observance of principles of natural justice. The cornerstone of all administrative and quasi-judicial proceedings is the principle of Audi alteram partem (hear the other side). The opportunity to file a reply and present one's case, either in writing or personally, is fundamental to a fair adjudication process.

5.2 The statutory provisions under the Customs Act place a high premium on the right to be heard. Section 122A of the Customs Act, 1962 states:

"(1) The adjudicating authority shall, in any proceeding under this Chapter or any other provision of this Act, give an opportunity of being heard to a party in a proceeding, if the party so desires."

5.3 The use of the word "shall" makes it mandatory for the authority to grant a hearing. Furthermore, the proviso to Section 122A(2) allows for adjournment if sufficient cause is shown. In the instant case, the imposition of heavy civil liabilities, including duty demands, redemption fines, and penalties, carries serious civil consequences. It is a settled principle of law that any order involving civil consequences must be passed in strict adherence to the Principles of Natural Justice. An ex-parte order is an exception, not the norm, and should only be resorted to when there is willful and repeated non-cooperation, which must be conclusively recorded.

5.4 It is pertinent to observe that by concluding the proceedings ex-parte, the Adjudicating Authority did not get the opportunity to go through the submissions made by the Appellant. The essence of adjudication lies in the impartial consideration of the arguments presented by both the Revenue and the Noticee. In this case, since the Appellant's detailed written submissions and their specific arguments were not taken on record or deliberated upon due to the absence of a hearing, the Adjudicating Authority was effectively deprived of the material necessary to form a balanced and well-reasoned opinion. Consequently, the findings recorded in the Impugned Order are one-sided, based solely on the investigation report, without the benefit of the counter-arguments which might have altered the final decision.



5.5 The Appellate Authority, in a situation where the Adjudicating Authority has passed an order without the benefit of the assessee's defence reply or appearance, and the assessee now appears before the Appellate Authority with a defence and denial of having received the initial notices, finds it just and proper to afford a fresh opportunity. A plethora of decisions from the Hon'ble Tribunal (CESTAT) have consistently set aside ex-parte orders where the principles of natural justice were, or appeared to be, violated, and remanded the matter back to the Adjudicating Authority for a fresh decision after providing a proper hearing. The setting aside of an ex-parte order and remanding the matter is a justified course of action when sufficient cause, such as non-receipt of notice, is shown for non-appearance/non-submission of reply.

5.6 In the present case, the Appellant has furnished detailed grounds of appeal. The Adjudicating Authority, in the original proceedings, did not have the opportunity to consider these substantive claims and relied solely on the investigation report due to non-submission of documents and non-appearance. Therefore, the order was passed without taking into account the potential legal defences now raised. The Adjudicating Authority must first adjudicate the matter on its merits, considering all facts and legal submissions, before penalties and interest can be confirmed.

5.7 In light of the above legal position, I find that the Impugned Order is legally unsustainable on procedural grounds. The Adjudicating Authority has failed to adhere to the mandatory requirement of Section 122A of the Customs Act, 1962 regarding the opportunity of being heard and passed a non-speaking order regarding the Appellant's defense. Justice must not only be done but must also be seen to be done. To ensure that the Appellant is not deprived of a statutory right to defend their case at the primary adjudication stage, I find it fit to set aside the impugned order solely on the grounds of violation of natural justice and remand the matter for de novo adjudication. Since the matter is being remanded on the preliminary ground of violation of principles of natural justice, I am not examining the merits of the classification or valuation at this stage. All issues remain open for the Adjudicating Authority to decide afresh.

6. In view of the above discussions and findings:

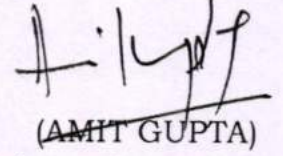
- a. The Order-in-Original No. MCH/ADC/MK/206/2023-24 dated 01.11.2023 is hereby set aside.



- b. The appeal filed by M/s Sidd International is allowed by way of remand to the Adjudicating Authority.
7. The appeal is disposed of in the above terms.



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


(AMIT GUPTA)

Commissioner (Appeals),
Customs, Ahmedabad

F. No. S/49-225/CUS/MUN/2023-24

Date: 01.01.2026

By Speed Post /E-Mail

To,
M/s Sidd International,
Basement floor, Property No. 68,
Pocket N, Sector 5 , DSIIDC Bawana Ind Complex,
near Plastic Factory, Bawana Ind Area,
New Delhi-110039

Copy to:

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.
2. The Principal Commissioner of Customs, Custom House , Mundra.
3. The Additional Commissioner of Customs, Custom House, Mundra.
4. Guard File.