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-20261071MN0000ED1000

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क	फ़ाइल संख्या FILE NO.	S/49-02/CA-2/CUS/KDL/JUN/2025-26
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) :	KDL-CUSTM-000-APP-56-26-27
ग	पारितकर्ता PASSED BY	Shri Vishwajeet Singh Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	01.10.2026
ङ	उदभूत अपील आदेश की सं. व दिनाक ARISING OUT OF ORDER-IN-ORIGINAL NO.	KDL/DC/217/RD/Gr.I/2024-25 dated 24.02.2025, passed by the Deputy Commissioner of Customs (Gr-1), Custom House, Kandla
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	01.10.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	The Assistant Commissioner of Customs (Gr-1), New Customs Building, Near Balaji Temple, Kandla Respondent: M/s Mahesh Oil Industries, Plot No. 1, Survey No. 84, Village Ajapar, Anjar (Kutch), Gujarat

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 है.
	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(	बैगेज़ के रूप में आयातित कोई माल.
(a)	any goods imported
(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 दस्तावेज़ों 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/-(रूपए दो सौ मात्र)या रु.1000/-(रूपए एक हज़ार मात्र), जैसा भी मामला हो, से सम्ब न्धित 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 सम्बंन्ध 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 मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016 — 2nd 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 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 हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच हज़ार 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 हज़ार 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 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

The present appeal has been filed by the Assistant Commissioner of Customs (Gr-1), Custom House, Kandla ("herein after referred to as "Appellant"), under Section 128 read with 129D(4) of the Customs Act on the basis of Review Cum Authorization Order No. 02/OIO/2025-26, dated 19.06.2025, issued by the Commissioner Customs, Kandla under Section 129D (2) of the Customs Act, 1962, against Order-in-Original No. KDL/DC/217/RD/Gr.I/2024-25 dated 24.02.2025 ("impugned order") passed by the Deputy Commissioner of Customs (Gr-1), Custom House, Kandla (hereinafter referred to as "the adjudicating authority"), in the case of M/s Mahesh Oil Industries, Plot No. 1, Survey No. 84, Village Ajapar, Anjar (Kutch), Gujarat ("the Respondent"), whereby the Bills of Entry detailed in Table-1 below were ordered to be re-assessed at 30% Basic Customs Duty (BCD) under Sr. No. 57II(A) of Notification No. 50/2017-Customs dated 30.06.2017. The particulars of the impugned Bills of Entry are as under:

S N	Bill of Entry No. & Date	OIO No. & Date	Description of goods / CTH	Qty (MT)	Entry Inward granted on
1	5410379 dtd 01.03.2018	KDL/DC/217/RD/Gr.I/2024-25 dated 24.02.2025	Crude Palm Oil (Edible Grade), CTH 15111000	1000	01.03.2018 at 04:00 hrs
2	5413853 dtd 01.03.2018	KDL/DC/217/RD/Gr.I/2024-25 dated 24.02.2025	Crude Palm Oil (Edible Grade), CTH 15111000	1000	01.03.2018 at 04:00 hrs

2. BRIEF FACTS OF THE CASE

2.1 The Respondent imported Crude Palm Oil (Edible Grade) in bulk from Indonesia, which arrived at Kandla per Vessel MT Brillante V.1801. The vessel arrived at the Kandla anchorage on 17.02.2018 at 0945 hrs and declared readiness to the Port on 27.02.2018 (IGM No. 2188454 dated 27.02.2018). The vessel berthed at Kandla Oil Jetty No. 3 on 01.03.2018, and Entry Inward was granted on 01.03.2018 at 04:00 hrs.

2.2 The Respondent filed two home-consumption Bills of Entry, No. 5410379 and No. 5413853, both dated 01.03.2018, for clearance of 1,000 MT each (2,000 MT in aggregate) of the imported CPO, classifiable under CTH 15111000. The assessable value declared under each Bill of Entry was Rs. 4,45,51,950/- (aggregate Rs. 8,91,03,900/-). Both Bills of Entry were self-assessed and initially assessed on 01.03.2018 at 30% BCD in terms of Sr. No. 57II(A) of Notification No. 50/2017-Customs dated 30.06.2017, and duty was substantially debited against an MEIS licence scrip on 01.03.2018, with the balance paid through TR-6 challans.

2.3 Notification No. 29/2018-Customs dated 01.03.2018 amended Sr. No. 57II(A) of Notification No. 50/2017-Customs and enhanced the BCD rate applicable to CPO from 30% to 44%. Out of Charge under Section 47 of the Customs Act, 1962 was withheld for the subject Bills of Entry on the ground that the enhanced rate applied; the Bills of Entry were recalled and re-assessed by the proper officer at the enhanced rate of 44% BCD, resulting in a differential duty demand of approximately Rs. 62,37,273/- (Basic Customs Duty) on each Bill of Entry, apart from consequential cess and IGST.

2.4 The Respondent did not accept the re-assessment and, vide letters dated 05.03.2018 and 06.03.2018, contended that since Entry Inward for the vessel was granted at 04:00 hrs on 01.03.2018, prior in point of time to the issuance of Notification No. 29/2018-Customs, the enhanced rate of duty was not applicable, and requested a speaking order under Section 17(5) of the Customs Act, 1962. Without prejudice, the Respondent paid the differential duty under protest — for BOE No. 5410379 vide challan dated 19.03.2018 (with interest of Rs. 1,218/-, plus differential duty of Rs. 50,330/- separately) and for BOE No. 5413853 vide challan dated 28.03.2018 (with interest of Rs. 79,384/-) and obtained clearance of the goods.

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2.5 No speaking order under Section 17(5) was issued by the proper officer at the material time. The Respondent thereupon filed an appeal before the Commissioner of Customs (Appeals), Ahmedabad, who, vide Order-in-Appeal No. KDL-CUSTM-000-APP-095 to 096-18-19 dated 31.01.2019, remitted the matter to the proper officer with a direction to examine the available facts, documents and submissions and pass a speaking order in accordance with the principles of natural justice, without expressing any opinion on the merits of the dispute.

2.6 Pursuant to the remand, and after a request from the Respondent dated 01.10.2023 (for refund of the differential duty) and a further request dated 24.01.2025 for recall and re-assessment, a personal hearing was held on 11.02.2025 before the Deputy Commissioner, at which the Respondent's authorised representative reiterated the submissions made in 2018 and additionally placed on record a duty-calculation sheet, challan copies, the MEIS licence ledger, and a chronology of events, including an assertion that the subject Bills of Entry were filed "in morning hours" on 01.03.2018.

2.7 The Deputy Commissioner, by the impugned Order-in-Original dated 24.02.2025, held that since the Bills of Entry were filed, assessed at 30% BCD and part-paid through the MEIS licence on 01.03.2018 i.e., before the issuance of Notification No. 29/2018-Customs, the enhanced rate of 44% was not applicable, relying on a Statement of Facts (SOF) issued by the vessel's agents recording Entry Inward and customs clearance timings, and ordered re-assessment of both Bills of Entry at 30% BCD under Notification No. 50/2017-Customs, Sr. No. 57II(A).

2.8 The impugned order was reviewed by the Commissioner of Customs, Custom House, Kandla under Section 129D(2) of the Customs Act, 1962, who, vide Review/Authorisation Order No. 02/OIO/2025-26 dated 19.06.05.2025, formed the opinion that the impugned order is not legal and proper and directed the Assistant Commissioner (Gr-1), Custom House, Kandla to file the present appeal before this forum. The appeal in Form C.A.-2 was accordingly filed on 19.06.2025 and received in this office on 23.06.2025.

3. GROUNDS OF THE DEPARTMENTAL APPEAL

The Appellant Department has, in substance, raised the following grounds against the impugned order:

(i) On verification of the EDI system records, it is found that the subject Bills of Entry were actually filed at 18:55 hrs on 01.03.2018 and not in the "morning hours" as claimed by the Respondent and as recorded in the impugned order.

(ii) Notification No. 29/2018-Customs was issued on 01.03.2018 itself, the very date on which the Bills of Entry were filed and was displayed on the CBIC website on that date, bearing the endorsement "To be published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i)".

(iii) The adjudicating authority failed to ascertain the precise time of issuance of Notification No. 29/2018-Customs and proceeded solely on the basis of the time of Entry Inward (04:00 hrs), without examining the EDI-recorded time of filing of the Bills of Entry.

(iv) As per Section 25(4) of the Customs Act, 1962 (as amended with effect from 14.05.2016), every notification issued under Section 25(1) comes into force "on the date of its issue by the Central Government for publication in the Official Gazette"; the requirement of actual e-publication (which, in the present case, occurred only on 06.03.2018) is not, on the Department's reading, a precondition for the notification coming into force.

(v) The Department places reliance on its own pending challenge, by way of Special Leave Petition Nos. 4845-4846/2023, before the Hon'ble Supreme Court against the CAV Judgment dated 11.11.2022 of the Hon'ble Gujarat High Court in the case of M/s Adani Wilmar Ltd. (Case Nos. 8057-8058/2019), which had followed the view of the Hon'ble Andhra Pradesh High Court in Ruchi Soya Industries Ltd. and held that a notification is enforceable only from the date of its actual e-publication.

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(vi) It is contended that the adjudicating authority failed to appreciate the Department's stand in the pending SLP and failed to correctly apply Section 25(4) of the Customs Act, 1962, as amended; consequently, the impugned order re-assessing the Bills of Entry at 30% BCD is not legal and proper and is liable to be set aside, with the matter remanded for re-adjudication.

4. Personal Hearing:

A communication dated enclosing a copy of the appeal memorandum. was issued to the Respondent seeking their comments on the matter. In adherence Principles of audi alteram partem, personal hearings were scheduled on 10.06.2026, 22.07.2026, 28.07.2026 and 03.08.2026. The record placed before me does not contain any written comments filed by the Respondent in response to the appeal memorandum, nor any material indicating whether the Respondent, or its authorised representative, participated in the personal hearing so fixed. In the absence of any such submissions on file, and there being no request on record for adjournment or further time, I proceed to decide this appeal on the basis of the material available on record, the Respondent having admittedly been afforded due opportunity of being heard.

5. DISCUSSION AND FINDINGS

5.1 I have carefully gone through the impugned Order-in-Original, the Review/Authorisation Order No. 02/OIO/2025-26 dated 23.05.2025, the grounds of appeal, the appeal memorandum in Form C.A.-2, and the material available on record.

5.2 The impugned order was passed on 24.02.2025 and was received by the Respondent on 25.02.2025. The Review Order under Section 129D(2) of the Customs Act, 1962 was passed on 23.05.2025, i.e., well within the period of three months prescribed under Section 129D(3) for review of an adjudicating authority's order. The present appeal in Form C.A.-2 was forwarded to this office under cover of letter dated 19.06.2025 and was received in this office on 23.06.2025, i.e., within one month of the Review Order, as required under Section 129D(4) of the Customs Act, 1962. The appeal is accordingly maintainable and is taken up for decision on merits.

5.3 The short issue arising for determination in this appeal is whether Notification No. 29/2018-Customs dated 01.03.2018, enhancing the Basic Customs Duty on the subject goods from 30% to 44%, was in force and applicable to Bills of Entry No. 5410379 and No. 5413853, both dated 01.03.2018, and whether, consequently, the impugned Order-in-Original re-assessing the said Bills of Entry at 30% BCD is legal and proper.

5.4 Section 25(4) of the Customs Act, 1962 deals with the date from which a notification issued under Section 25 comes into force. Before 14.05.2016, the provision stated that such notification would come into force on the date of its issue by the Central Government for publication in the Official Gazette. With effect from 14.05.2016, clause (b) of Section 25(4) was omitted, and the provision now states that such notification shall, unless otherwise provided, come into force on the date of its issue by the Central Government for publication in the Official Gazette. The issue in the present case is the meaning of the words "issue by the Central Government for publication", and whether a notification becomes effective merely on being internally signed/uploaded for publication or only when it is actually published and made available to the public.

5.5 The correct legal position regarding the date on which a notification under Section 25 of the Customs Act, 1962 comes into force has been settled by the Hon'ble Supreme Court in *Union of India v. G.S. Chatha Rice Mills*, 2020 (374) E.L.T. 289 (S.C.). In that case, a notification enhancing duty was uploaded on the e-Gazette on a particular date and time, while some Bills of Entry had already been filed on the same date. The Hon'ble Supreme Court held that an electronically published notification comes into force

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from the date and time of its actual e-publication and not merely from the date mentioned on the notification or from an earlier internal act of signing for publication. The Court held that a subordinate legislation imposing a new burden cannot operate against persons before it is made known to them. Accordingly, the Bills of Entry filed before the actual e-publication were held not to be liable to the enhanced rate of duty.

5.6 The same principle was directly applied to Notification No. 29/2018-Customs dated 01.03.2018 by the Hon'ble Gujarat High Court, the jurisdictional High Court, in *Adani Wilmar Ltd. v. Union of India*, Civil Miscellaneous Application No. 8057 of 2019, decided on 11.11.2022. The case involved the very same Notification No. 29/2018-Customs. The Hon'ble Gujarat High Court found that although the notification was dated 01.03.2018, it was digitally signed and uploaded for e-publication only on 06.03.2018 at 19:15 hours. The Court therefore held that the notification came into force only on 06.03.2018, when it was actually published in the Official Gazette. Consequently, the enhanced rate of duty under the notification was not applicable to Bills of Entry presented before that date. The petitioner was accordingly held entitled to clear the goods at the rate applicable before the amendment.

5.7 The same position was subsequently considered and affirmed by the Hon'ble CESTAT, Bangalore Bench, in *Adani Wilmar Ltd. v. Commissioner of Customs, Bangalore*, Customs Appeal No. 20277 of 2020, Final Order No. 20010/2023 dated 03.02.2023. In that case also, the issue was whether Notification No. 29/2018-Customs came into force on 01.03.2018, the date mentioned on the notification, or on the date of its actual e-publication. After considering the Government of India's 2015 press release regarding exclusive e-publication of Gazette notifications, the requirement of digital signing before e-publication, and the judgment of the Hon'ble Gujarat High Court in *Adani Wilmar*, the Tribunal held that a notification cannot be treated as published unless it is digitally signed. Since Notification No. 29/2018-Customs was digitally signed only on 06.03.2018, the Tribunal held that it came into force only on that date. The order of the Commissioner (Appeals) taking a contrary view was set aside and refund of the differential duty was allowed. Since the aforesaid decision of the Hon'ble CESTAT, Bangalore Bench, concerns the very same Notification No. 29/2018-Customs dated 01.03.2018 and follows the ratio of the judgment of the jurisdictional Hon'ble Gujarat High Court in *Adani Wilmar Ltd. v. Union of India*, it provides further judicial support for the conclusion reached herein and is respectfully followed.

5.8 The Department does not dispute that Notification No. 29/2018-Customs was actually e-published in the Gazette of India only on 06.03.2018. This fact is also specifically stated in Grounds (ii) and (iv) of the appeal memorandum. However, the Department contends that the notification had already come into force on 01.03.2018 because it had been issued/displayed on the CBIC website on that date. The Department has also argued that the view taken by the Hon'ble Gujarat High Court in *Adani Wilmar*, as well as the view of the Hon'ble Supreme Court in *G.S. Chatha Rice Mills* and the Hon'ble CESTAT, Bangalore Bench in the *Adani Wilmar* case, should not be followed because SLP Nos. 4845-4846/2023 are stated to be pending before the Hon'ble Supreme Court.

5.9 The Department has further contended that the judgment of the Hon'ble Gujarat High Court in *Adani Wilmar Ltd. v. Union of India* is presently under challenge before the Hon'ble Supreme Court in SLP Nos. 4845-4846/2023 and, therefore, the said judgment ought not to be relied upon. I find no merit in this contention. Mere pendency of a Special Leave Petition against a judgment does not, by itself, obliterate,

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suspend or dilute the binding force of the judgment under challenge. In the absence of any order of stay or suspension of its operation by the Hon'ble Supreme Court, the judgment of the jurisdictional Hon'ble Gujarat High Court continues to hold the field and is binding upon authorities functioning within its territorial jurisdiction. Further, the ratio of *Union of India v. G.S. Chatha Rice Mills*, 2020 (374) E.L.T. 289 (S.C.), on the question of the enforceability of a notification under Section 25 of the Customs Act, 1962, continues to constitute the binding law declared by the Hon'ble Supreme Court under Article 141 of the Constitution. Significantly, the decision of the Hon'ble Gujarat High Court in *Adani Wilmar* concerns the very same Notification No. 29/2018-Customs dated 01.03.2018 which is involved in the present proceedings. Accordingly, the pendency of the aforesaid SLPs cannot constitute a valid ground for disregarding the ratio of the binding judicial precedents. The Department's contention in this regard is, therefore, rejected.

5.10 I have also considered the Department's contention that, according to the EDI system, the subject Bills of Entry were filed at 18:55 hrs on 01.03.2018, whereas the Respondent had claimed, and the adjudicating authority had recorded, that the Bills of Entry were filed in the morning hours. In my considered view, this factual discrepancy does not have any bearing on the determination of the present appeal. The undisputed position is that both Bills of Entry were presented on 01.03.2018, whereas Notification No. 29/2018-Customs, though dated 01.03.2018, was actually published in the Official Gazette only on 06.03.2018 at 19:15 hrs. In view of the law laid down by the Hon'ble Supreme Court in *G.S. Chatha Rice Mills* and applied by the jurisdictional Hon'ble Gujarat High Court in *Adani Wilmar Ltd.*, the notification could not acquire legal force before its actual publication. Consequently, the enhanced rate of 44% BCD was not operative at any point of time on 01.03.2018. Thus, whether the subject Bills of Entry were filed in the morning, at 18:55 hrs, or at any other time on 01.03.2018, they all preceded the coming into force of Notification No. 29/2018-Customs and remained governed by the rate of duty applicable on that date. The Department's objection regarding the precise hour of filing is, therefore, legally immaterial and incapable of altering the applicable rate of duty. Likewise, the proviso to Section 15(1)(a) concerning presentation of a Bill of Entry before grant of Entry Inward does not arise for effective determination of the present dispute, since Entry Inward had already been granted at 04:00 hrs on 01.03.2018 and, in any event, the enhanced notification itself was not in force on that date.

5.11 I further note that the procedural defect which had resulted in the earlier remand by Order-in-Appeal No. KDL-CUSTM-000-APP-095 to 096-18-19 dated 31.01.2019, namely, the absence of a speaking order under Section 17(5) of the Customs Act, 1962, has now been cured. The impugned Order-in-Original dated 24.02.2025 considers the facts of the case, the submissions of the Respondent, the relevant legal provisions and the material available on record, including the Statement of Facts issued by the vessel's agents. It also gives reasons for the conclusion reached. Therefore, the order is, in substance and form, a speaking order passed in compliance with the directions in the 2019 remand order and the requirements of Section 17(5) of the Customs Act, 1962. No further defect remains on this ground.

5.12 In view of the foregoing discussion and findings, I find that Notification No. 29/2018-Customs dated 01.03.2018 had not acquired legal operation on 01.03.2018. The mere fact that the notification bears the date 01.03.2018 cannot, in view of the statutory scheme and the law laid down by the Hon'ble Supreme Court in *Union of India v. G.S. Chatha Rice Mills*, confer operative effect upon the notification from that

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date. The same legal position has been applied by the jurisdictional Hon'ble Gujarat High Court in *Adani Wilmar Ltd. v. Union of India* in relation to the very same notification. The issue is, therefore, required to be determined with reference to the date on which the notification acquired legal enforceability, and not merely by reference to the date borne on the notification. Consequently, the enhanced rate prescribed under Notification No. 29/2018-Customs could not govern the subject Bills of Entry presented on 01.03.2018. The finding recorded by the adjudicating authority on this issue is accordingly found to be in conformity with the applicable statutory and judicial position.

ORDER

6. In view of the discussion and findings recorded above, the appeal filed by the Department (Assistant Commissioner of Customs, Gr-1, Custom House, Kandla) against Order-in-Original No. KDL/DC/217/RD/Gr.I/2024-25 dated 24.02.2025 is rejected, and the impugned Order-in-Original is upheld.

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

Vishwajeet Singh
01.10.2026

(Vishwajeet Singh)
Commissioner of Customs (Appeals),
Ahmedabad

01.10.2026

S/49-02/CA-2/CUS/KDL/JUN/2025-26 1440

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Copy to:

1. M/s Mahesh Oil Industries, Plot No. 1, Survey No. 84, Village Ajapar, Anjar (Kutch), Gujarat – Respondent.
2. The Assistant Commissioner of Customs (Gr-1), Custom House, Kandla – Appellant.
3. The Commissioner of Customs, Custom House, Kandla.
4. The Chief Commissioner of Customs, Gujarat Zone, Custom House, Ahmedabad.
5. Guard File.