



सीमाशुल्क (अपील) आयुक्तका कार्यालय, अहमदाबाद
 OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD
 चौथी मंज़िल 4th Floor, हडको बिल्डिंग HUDCO Building, ईश्वर भुवन रोड़ Ishwar Bhuvan Road,
 नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009.
 दूरभाष क्रमांक Tel. No. 079-26589281
DIN-20251071MN000000BE72

क	फ़ाइल संख्या FILE NO.	F.No. S/49-194/CUS/AHD/2024-25
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-303-25-26
ग	पारितकर्ता PASSED BY	SHRI AMIT GUPTA Commissioner of Customs (Appeals), AHMEDABAD
घ	दिनांक DATE	30.10.2025
ङ	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER - IN - ORIGINAL NO.	O.I.O. No. 122/ADC/VM/O&A/2024-25 dated 19.08.2024 passed by the Additional Commissioner of Customs, Ahmedabad
	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	30.10.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	Shri. Jayesh Tribhovandas Patel, C/501, Shivalik, Near Manan Bunglows, Near City Light, Surat – 395017.
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 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/- (रुपए दो सौ मात्र) या रु. 1000/- (रुपए एक हजार मात्र), जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां. यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रुपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु. 200/- और यदि एक लाख से अधिक हो तो फीस के रूप में रु. 1000/-
(d)	The duplicate copy of the T.R.6 challan evidencing payment of Rs. 200/- (Rupees two Hundred only) or Rs. 1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs. 200/- and if it is more than one lakh rupees, the fee is Rs. 1000/-.
4.	मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं



	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :	
	सीमाशुल्क, केंद्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench
	दूसरी 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 हजार 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 हजार 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 हजार 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

Shri. Jayesh Tribhovandas Patel, C/501, Shivalik, Near Manan Bunglows, Near City Light, Surat – 395017 (hereinafter referred to as 'the appellant') has filed the present appeal against the Order-In-Original No. 122/ADC/VM/O&A/2024-25 dated 19.08.2024 (hereinafter referred to as 'the impugned order') passed by the Additional Commissioner of Customs, Ahmedabad (hereinafter referred to as 'the adjudicating authority').

2. A case was booked by Preventive/SIIB Branch of Ahmedabad Customs Commissionerate in the year 2010 in respect of illegal exported of Muriate of Potash (MOP), which was mis-declared as Sodium Chloride / Industrial Salt. The goods viz. Potassium Chloride (Muriate of Potash) was Restricted item for export, as per the EXIM Policy 2009-14.

3. Vide impugned order, the adjudicating authority observed that Shri Jayesh Tribhovandas Patel and M/s. Jay Mahalaxmi Enterprise (Proprietor: Smt. Dipti Jayesh Patel) were actively involved in illegal export of MOP by way of mis-declaration. So, vide impugned order the adjudicating authority held that the goods, i.e. 750 MTs of Potassium Chloride (Muriate of Potash) valued at Rs.1,87,50,000/- exported by M/s. Jay Mahalaxmi Enterprise, Surat, are liable for confiscation under Section 113(d) & (i) of the Customs Act, 1962; however, he gave an option to redeem the goods on payment of Fine of Rs.18,75,000/- under Section 125. The adjudicating authority has imposed penalty of Rs.60,00,000/- on M/s. Jay Mahalaxmi Enterprise and its Proprietor Smt. Dipti Jayesh Patel under Section 114 (i) of the Customs Act, 1962. He also imposed penalties of **Rs.5,00,000/-** under **Section 114(i)** and **Rs.5,00,000/-** under **Section 114AA** of the Customs Act, 1962 on **Shri. Jayesh Tribhovandas Patel**.

4. Being aggrieved against the impugned order, the appellant has filed present appeal. In the grounds of appeal, it has been mentioned that as evident by the test report in respect of one of the consignments, appellant had exported only sodium chloride and allegation contained in the SCN about appellant having indulged in the business of exporting the prohibited goods were false, baseless, frivolous, and unsubstantiated by any concrete or reliable evidence. The appellant further submitted that the entire case is based on statements given by the Co-noticees and it is well settled legal position that the statement given by the Co-noticee cannot be relied upon unless the veracity of such statement is tested by way of examining them first by the adjudicating authority in terms of Section 138B of the



Act. Further, the test result of one sample of a live consignment of some other exporter namely M/s. Balaji cannot be made applicable to the consignments exported by M/s. Jay Mahalaxmi Enterprise, which have already been cleared and are not physically available for verification. Thus, the appellant concluded that the entire case against the appellant is based on statements of Co-accused without any other evidence to establish that the exported goods were MOP. In view of the above, the appellant has requested to set aside the impugned order

5. In the Form of Appeal, i.e. Form No. C.A.-1 the date of communication of the impugned order dated 19.08.2024 has been shown as "30.08.2024". Whereas, the present appeal has been filed on 23.10.2024. Thus, it has been filed within normal period of 60 days, as prescribed under Section 128(1) of the Customs Act, 1962. However, in the Form C.A.-1, the no particulars of pre-deposit have been mentioned. No T.R.6 Challan or any other evidence regarding payment of pre-deposit has been attached with the appeal.

6. Thus, it appeared that the appellant has not made any pre-deposit as required under Section 129E of the Customs Act, 1962. So, a letter bearing F.No. S/49-194/CUS/AHD/2024-25 dated 19.11.2024 has been send to the appellant, informing following **deficiencies in the appeal** filed by him:

- i. *A copy of the Order-In-Original No. 122/ADC/VM/O&A/2024-25, dated 19.08.2024, has not been enclosed.*
- ii. *A document evidencing the payment of pre-deposit (7.5% of the penalty imposed), as required under Sub-Section (i) of Section 129E of the Customs Act, 1962, has not been enclosed.*
- iii. *The appeal filed does not bear the requisite court fee stamp.*

The appellant was requested for necessary compliance. It was also informed to the appellant that failure to do so would result in rejection of appeal in accordance with provisions of Section 129E of the Customs Act, 1962 and the Customs (Appeals) Rules, 1982. However, no reply to this office letter dated 19.11.2024 has been received from the appellant.

7. Another letter bearing F.No. S/49-194/CUS/AHD/2024-25 dated 07.10.2025 has been sent to the appellant, in which the appellant was requested to submit compliance of this office letter dated 19.11.2024. In this letter, it was again informed that failure to pay



pre-deposit may result in rejection of appeal in terms of provisions of Section 129E of the Customs Act, 1962, or any other law for the time being in force.

8. In order to fulfill the principles of natural justice, vide letter dated 09.10.2025, it was communicated that a Personal Hearing in this matter was fixed on 16.10.2025. Reference to this office letters dated 19.11.2024 and 07.10.2025 was also given and the appellant was again requested to comply with the deficiencies including requirement of Pre-Deposit under Section 129E of the Customs Act, 1962.

9. The aforesaid letters dated 07.10.2025 and 09.10.2025 have been sent to the appellant by Speed Post on her address as shown the Form of Appeal, i.e. Form No. C.A.-1. But, both letters have been returned by Postal Department with remarks "unclaimed" etc. The appellant has not mentioned any other address or email id on which further communications can be sent.

FINDINGS

10. I observe that in the Form of Appeal, i.e. Form C.A.-1, the name and address of the appellant as well as the address to which the notices may be sent to the appellant, both are shown as same, as under:

"Shri. Jayesh Tribhuvandas Patel
(M/s. Jay Mahalaxmi Enterprises)
C/501, Shivalik, Near Manan Bungalows,
Near City Light, Surat."

I find that the above-mentioned letters dated 19.11.2024, 07.10.2025 and 09.10.2025 of this office have been sent to the above address, but the last two letters have been returned by Postal Department with remarks "unclaimed" etc. There is no other address or email id of the appellant available on record. The appellant has not submitted any Vakalatnama or Authorisation and thus, he has not authorised any other person to represent his case in present proceedings. So, no purpose will be served by sending more letters to the same address offering further Personal Hearing. The appeal is pending for one year. Under this situation, I have no option but to decide the appeal on the basis of documents available on record.



11. As per Rule 4(2) of the Customs (Appeals) Rules, 1982, the Form No. C.A.-2 should be accompanied by two copies of the decision or order passed by the adjudicating authority (one of which at least shall be certified copy). Whereas, in the present case, the appellant has not submitted any copy of the decision or order, against which the appeal has been filed. This deficiency has been communicated to the appellant, but not complied with. However, a copy of the impugned order i.e. Order-In-Original No. 122/ADC/VM/O&A/2024-25 dated 19.08.2024, has been obtained from departmental channel.

12. As the present appeal has been filed without submitted any document towards payment of **Pre-deposit**, I refer the statutory provisions of Section 129E of the Customs Act, 1962, which are as under:

"129E. Deposit of certain percentage of duty demanded or penalty imposed before filing appeal.

The Tribunal or the Commissioner (Appeals), as the case may be, shall not entertain any appeal,—

- (i) *under sub-section (1) of section 128, unless the appellant has deposited seven and a half per cent of the duty, in case where duty or duty and penalty are in dispute, or penalty, where such penalty is in dispute, in pursuance of a decision or an order passed by an officer of customs lower in rank than the Commissioner of Customs;*
- (ii) *against the decision or order referred to in clause (a) of sub-section (1) of section 129A, unless the appellant has deposited seven and a half per cent of the duty, in case where duty or duty and penalty are in dispute, or penalty, where such penalty is in dispute, in pursuance of the decision or order appealed against;*
- (iii) *against the decision or order referred to in clause (b) of sub-section (1) of section 129A, unless the appellant has deposited ten per cent of the duty, in case where duty or duty and penalty are in dispute, or penalty, where such penalty is in dispute, in pursuance of the decision or order appealed against:*

Provided that the amount required to be deposited under this section shall not exceed rupees ten crores:



Provided further that the provisions of this section shall not apply to the stay applications and appeals pending before any appellate authority prior to the commencement of the Finance (No. 2) Act, 2014."

The above-mentioned provisions of Section 129E clearly prescribe that the Commissioner (Appeals) shall not entertain any appeal unless the appellant has made a pre-deposit of 7.5% duty/penalty in dispute. Thus, it is mandatory for appellant to deposit the seven and a half per cent of the penalty, in a case like this one where penalty is in dispute. The statutory provisions of Section 129E, as substituted by the Finance (No.2) Act, 2014, do not grant any discretion to the Commissioner (Appeals) to reduce or waive the requirement of pre-deposit.

13. In the present case, the adjudicating authority has imposed a penalty of Rs.5,00,000/- under Section 114(i) and penalty of Rs.5,00,000/- under Section 114AA on Shri. Jayesh Tribhovandas Patel, vide impugned order. Therefore, for filing appeal against the impugned order, the appellant was required to pay **pre-deposit Rs.75,000/-**, as per the provisions of Section 129E and submit a proof thereof to this office. Whereas, in the present case, the appellant failed to submit any document showing payment of pre-deposit despite of issuance of above-mentioned letters by this office. Therefore, I am of the view that the present appeal cannot be entertained in absence of compliance of Section 129E of the Customs Act, 1962.

14. In this regard, I also rely upon the judgment of Hon'ble High Court of Madhya Pradesh in case of **Ankit Mehta V. Commissioner of CGST, Indore** [2019 (368) E.L.T. 57 (M.P.)], wherein the Hon'ble High Court has observed that Section 129E of the Customs Act, 1962 does not empower the Commissioner (Appeals) to waive the pre-deposit or to reduce the pre-deposit. The relevant para of the judgment is reproduced hereunder:

"13. This Court after careful consideration of the aforesaid judgments is of the opinion that Section 129E does not empower the Tribunal or the Commissioner (Appeals) to waive the pre-deposit or to reduce the pre-deposit, this Court is also not inclined, keeping in view the aforesaid statutory provision of law to waive or reduce the pre-deposit and, therefore, no case for interference is made out in the matter."

15. I also rely upon the Order dated 06.12.2024 of Hon'ble High Court of Bombay in W.P. No. 476 of 2024 in the case of **Lalit Kulthia Vs. Commissioner of Customs (Appeals)**,



Mumbai-III, which is reported as (2025) 28 Centax 135 (Bom.)/2025 (392) E.L.T. 436 (Bom.). Para 6 to 8 of the said Order are as under:

"6. The relief the Petitioners seek contradicts Section 129E of the Customs Act, which contemplates a pre-deposit. In Kotak Mahindra Bank Pvt Ltd. v. Ambuj A Kasliwal and Others (2021) 3 SCC 549, the Hon'ble Supreme Court has held that even the High Court should not direct the appellate authorities to admit and hear appeals unaccompanied by the minimum pre deposit requirement under the statute. The Hon'ble Supreme Court held that discretion under Article 226 of the Constitution of India cannot be exercised against the mandatory requirement of statutory provision.

7. In Manjit Singh v. Union of India 2023 (383) E.L.T. 308 (Bom.) = (2022) 1 Centax 91 (Bom.) (Writ Petition No. 673 of 2020), decided by the Coordinate Bench of this Court on 18 October 2022, relief of waiver of the minimum pre-deposit of 7.5% of the penalty under Section 129E of the Customs Act was declined. This decision considers all the contentions raised in this Petition and discusses earlier precedents on the subject.

8. Therefore, based on the decision of the Hon'ble Supreme Court and this Court, no case is made to grant any relief to the Petitioners."

16. I also rely upon the Judgment dated 14.03.2024 of Hon'ble High Court of Delhi in the case of **G and S International Vs. Commissioner of Customs** [(2024) 17 Centax 400 (Del.)], wherein it has been held, **"Unless Section 129E is complied with, the Appellate Authority cannot proceed to hear the appeal on merits. Therefore, the logical consequence of failure to comply with Section 129E, is the rejection of appeal on that ground. The law on the subject is not res integra."**

17. Since, the appellant has not made any pre-deposit, I am constrained to dismiss the appeal filed by him for failure to deposit the amount of pre-deposit, as prescribed under the provisions of Section 129E of the Customs Act, 1962.

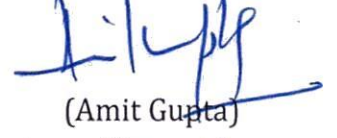


18. In view of the above discussion, I pass the following order:

ORDER

I dismiss the appeal filed by Shri. Jayesh Tribhovandas Patel, for non-compliance of Pre-deposit, as prescribed under the provisions of Section 129E of the Customs Act, 1962.




(Amit Gupta)

Commissioner (Appeals),
Customs, Ahmedabad

F.No. S/49-194/CUS/AHD/2024-25

Date: 30.10.2025

By Speed Post (As per Section 153(1)(b) of the Customs Act, 1962)

To
Shri. Jayesh Tribhovandas Patel,
C/501, Shivalik, Near Manan Bunglows,
Near City Light, Surat - 395017.

Copy to: (By E-mail only)

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.
(email: ccoahm-guj@nic.in)
2. The Principal Commissioner of Customs, Custom House, Ahmedabad.
(email: cus-ahmd-guj@nic.in rra-customsahd@gov.in)
3. The Deputy/Assistant Commissioner of Customs, ICD-Khodiyar
(email: icdkhd-ahd@gov.in)
4. Guard File.
