



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-20250971MN000000DCFA

क	फ़ाइल संख्या FILE NO.	S/49-234/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-267-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	26.09.2025
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER - IN - ORIGINAL NO.	OIO No. 45/DC/ICD/IMP/REF/2024 dated 06.09.2024 passed by the Deputy Commissioner of Customs, ICD-Khodiyar, Dist. Gandhinagar.
	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	26.09.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Meghmani Pigments, 11 th floor, JMC House, Opp. Parimal Garden, Ellis Bridge, Ahmedabad – 380006.

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 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, 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

M/s. Meghmani Pigments, 11th floor, JMC House, Opp. Parimal Garden, Ellis Bridge, Ahmedabad – 380006 (hereinafter referred to as 'the appellant') has filed the present appeal in terms of Section 128 of the Customs Act, 1962, against the Order-In-Original No. 45/DC/ICD/IMP/REF/2024 dated 06.09.2024 (hereinafter referred to as 'the impugned order') passed by the Deputy Commissioner of Customs, ICD-Khodiyar, Dist. Gandhinagar (hereinafter referred to as 'the adjudicating authority'). Vide impugned order, the appellant's claim for refund of interest of Rs.1,84,66,284/- paid on delayed payment of IGST has been rejected by the adjudicating authority.

2. Facts of the case in brief are that the appellant was importing various chemicals under Advance Authorisation Scheme without payment of Customs duties including IGST leviable under Section 3(7) of the Customs Tariff Act, 1975. According to the appellant, they had exported the goods first and subsequently imported duty-free goods/inputs under Advance Authorisation by availing Exemption under Notification No. 18/2015-Cus dated 01.04.2015, as amended by Notification No. 79/2017-Cus dated 13.10.2017. Later, in view of the Judgment dated 28.04.2023 of Hon'ble Supreme Court in the case of **Union of India vs. Cosmo Films Ltd.** [(2023) 5 Centax 286 (S.C.)], it was settled that the 'Pre-import condition' for imports under Advance Authorisation is valid and required to be fulfilled. The 'Pre-import condition' was omitted vide Notification No. 01/2019-Customs dated 10.01.2019. Thus, during the period of 13.10.2017 to 09.01.2019 there was 'pre-import condition' in Para 4.14 of the Foreign Trade Policy 2015-20, which was held to be valid by Hon'ble Supreme Court. So, during the period of 13.10.2017 to 09.01.2019, the importer was required to import the inputs under Advance Authorisation Scheme first; and by using such inputs the goods manufactured by them were required to be exported in discharge of their export obligation. Whereas, in the present case, the appellant has made exports first and imported inputs under Advance Authorisation later duty free, which was not proper.

3. Following the aforesaid Judgment of Hon'ble Supreme Court, the CBIC issued a **Circular No. 16/2023-Customs dated 07.06.2023**, which clarified the procedure for paying IGST and availing Input Tax Credit (ITC). The appellant had stated to have voluntarily paid IGST of Rs. 2,40,01,736/- and Interest on IGST amounting to Rs. 1,84,66,284/-, which was automatically calculated by the EDI System during the reassessment of their 16 Bills of Entry as per the procedure prescribed in the said Circular.



4. Thereafter, the appellant submitted a letter dated 05.10.2023 to the Commissioner of Customs, Ahmedabad, citing provisions of Section 149 and Section 154 of the Customs Act, 1962, seeking amendment/reassessment of the subject BOEs and requesting the exclusion of the amount paid equivalent to the interest amounting to Rs.1,84,66,284/- from the subject BOEs and to provide a refund of the said amount as per the provisions of Section 27 of the Customs Act, 1962, along with applicable interest. Thereafter, the claimant has submitted a letter dated 08.05.2024 (submitted on 10.05.2024) to the Deputy Commissioner of Customs, ICD Khodiyar (with reference to their earlier letter dated 05.10.2023 addressed to Commissioner of Customs) on this issue.

5. Thereafter, a Show Cause Notice dated 24.05.2024 was issued by the Deputy Commissioner of Customs, ICD-Khodiyar, for rejection of refund claim. After considering the written and oral submissions of the claimant, the adjudicating authority has rejected the refund claim vide impugned order dated 06.09.2024. Being aggrieved, the claimant/appellant has filed the present appeal under the provisions of Section 128 of the Customs Act, 1962.

Admission of Appeal:

6. As the present appeal has been filed against rejection of refund claim, pre-deposit for filing the appeal under the provisions of Section 129E of the Customs Act, 1962, is not required. In the Form CA-1 of the Appeal Memorandum, the Date of communication of the impugned order dated 06.09.2024 has been shown as '11.09.2024'. Whereas, the present appeal has been filed on 05.11.2024. As the appeal has been filed within normal period of 60 days from the date of receipt of impugned order, as stipulated under Section 128(1) *ibid*, it has been admitted and being taken up for disposal on merits.

Grounds of Appeal:

7. The appellant has raised various contentions in their grounds of appeal. Gist of the same is as under:

7.1 The appellant cited the judgment in the case of *Sakar Industries Private Limited v. Commissioner of Customs - Ahmedabad* in CUSTOMS Appeal No. 10453 of 2024 [2024 (10) TMI 1141 - CESTAT AHMEDABAD] wherein the CESTAT ruled that a demand for IGST cannot be raised if the department cannot prove that imported materials were not used in the manufacture of exported goods. The appellant stated that the department has not made such an allegation; that they have fulfilled their export obligations and applied for an Export Obligation Discharge Certificate (EODC) for all licenses in question.



7.2 The appellant argued that Section 3(12) of the Customs Tariff Act incorporates only provisions relating to duty, refunds and exemptions from the Customs Act, but not interest. There is no specific statutory provision under the Customs Act for charging interest on the IGST component. They relied upon the Bombay High Court's judgment in ***Mahindra and Mahindra v. Union of India*** [2022 (10) TMI 212 (Bom. HC)] which held that interest and penalties cannot be levied without an explicit, substantive provision in the statute.

7.3 The appellant further contends that Circular No. 16/2023 cannot be the basis for enforcing interest payment because administrative circulars cannot override statutory law. The company notes that while the Supreme Court directed the CBIC to issue a circular to clarify the procedure for ITC availment, it did not mandate the payment of interest.

7.4 The appellant further argued that the adjudicating authority misinterpreted the conditions of their bond, which only requires a 15% interest payment if they fail to fulfil their export obligation; but in this case they have fulfilled this obligation.

7.5 The Appellant was compelled to pay an amount equivalent to interest due to auto-calculation by the EDI system, without any statutory mandate or discretion to correct it and the same is liable to be refunded with compensatory interest @12% p.a., as recognized in cases like *Sandvik Asia Ltd. v. CIT* - [2006] 150 TAXMAN 591 (SC) and *Gujarat Fluorochemicals Ltd. v. CIT* - [2015] 55 taxmann.com 204 (Gujarat).

7.6 The appellant has relied upon numerous decisions in support of their contention that interest is not payable on IGST and therefore, they have requested to refund the interest paid by them with interest.

Additional Written Submissions

8. Vide letter dated 11.08.2025, the appellant has submitted additional written submissions, which are as under:

8.1 The Appellant has made detailed submissions from paragraphs 35 to 45 (in the appeal submitted) basis legal position and the judicial precedents that imposition of interest under section 28AA of the Customs Act, 1962 is not justified in the absence of substantive provisions for charging interest. The provisions under the Customs Tariff Act, 1975 as



prevalent when the imports where done are inadequate regarding the imposition of interest on additional duty of integrated tax as levied under Section 3(7) of the Customs Tariff Act, 1975 levied on imports of goods.

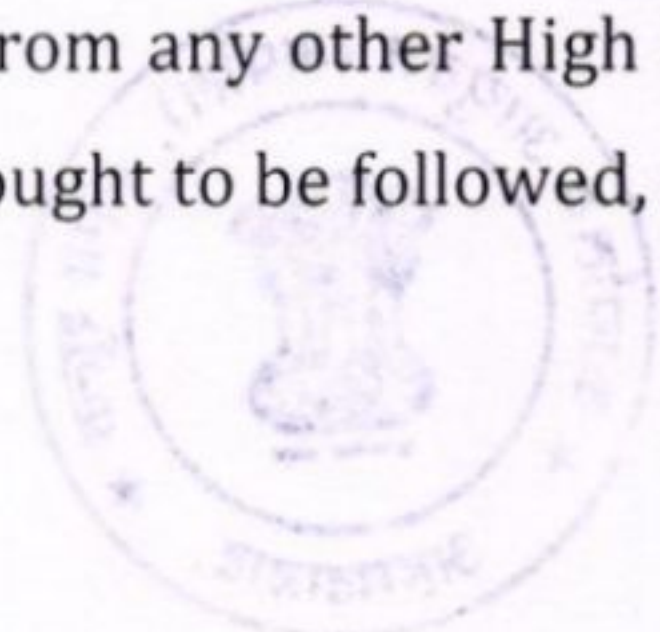
8.2 The Appellant would like to draw attention of the Bombay High Court Ruling in the matter of **A. R. Sulphonates Private Limited vs Union of India** on the demand of interest, penalty and redemption fine from the Petitioner in lieu of payment of IGST leviable under Section 3(7) of the Customs Tariff Act, 1975 levied on imports of goods. The demand originated on account of non-fulfilment of pre-import condition for imports made against Advance Authorization. The demand for interest was made under Section 28AA of the Customs Act, 1962 as in the present case of the Appellant. Thus, the facts are similar to the current matter. Further, the Hon'ble Bombay High Court dropped the demand of interest, penalty and redemption fine and also held that Circular No. 16/2023 -Customs dated 7th June 2023 issued by the Central Board of Indirect Tax and Customs to the extent it purports to levy interest upon the IGST payment.

8.3 The Hon'ble Court ordered in favour of the petitioner by considering various judicial precedents and holding that the amended Section 3(12) of the Customs Tariff Act, 1975 is prospective in nature and would apply only with effect from 16th August 2024.

8.4 The Appellant submits that the issue involved in the present appeal filed by the Appellant is no longer *res integra* and stands decided in favour of the assessee by the order of Commissioner of Customs (Appeals), Ahmedabad, in the matter of M/s. AWL Agri Business Limited (formerly known as Adani Wilmar Limited) Versus Additional Commissioner of Customs, Customs House, Mundra [Order in Appeal No. MUN-CUSTM-000-APP-114-25-26 dated June 30, 2025].

8.5 Given the above, since the ruling of the Hon'ble Bombay High Court and Order-In-Appeal in case of M/s. AWL Agri Business Limited (*Supra*) is squarely applicable considering the facts, the Appellant prayed to set aside the impugned order and grant the refund of the amount deposited equivalent to the interest (i.e., Rs. 1,84,66,284/-). Furthermore, they have requested that the Appellant be compensated by way of paying interest on the amount already deposited at the rate of 12% p.a. from the date of deposit until the date of refund as compensation.

8.6 It is pertinent to note that there is no contrary ruling as on date to the aforesaid ruling from any other High Court or the Supreme Court. Thus, the principle of judicial discipline ought to be followed, and relief be granted on the basis of the subject ruling.



Personal Hearing:

9. Vide letter dated 15.07.2025, the appellant has submitted an application for early hearing on the ground that issue is no longer res integra and already decided by Commissioner of Customs (Appeals), Ahmedabad, in the matter of AWL Agri Business Ltd. (formally known as Adani Wilmar Ltd.) vide Order-In-Appeal No. MUN-CUSTOM-000-APP-114-25-26 dated 30.06.2025.

10. Personal Hearing in this case was held in virtual mode, i.e. through video conference, on 10.09.2025, which was attended by Shri Vaibhav Jajoo, Advocate, on behalf of the appellant. He reiterated the written submissions made by them.

DISCUSSION & FINDINGS

11. One set of the appeal memorandum has been sent to the Deputy Commissioner of Customs, ICD Khodiyar, vide this office letter F.No. S/49-234/CUS/AHD/2024-25/3999 dated 04.12.2024 for comments, but no reply thereof has been received. Therefore, I proceed to decide the appeal on basis of documents submitted by the appellant.

12. I have gone through the appeal memorandum and the additional submissions filed by the appellant and also considered oral submissions made on behalf of the appellant during personal hearing. The main issue to be decided in present appeal is whether the impugned order rejecting refund of interest, paid towards delayed payment of IGST, under the provisions of Section 27 of the Customs Act, 1962, in the facts and circumstances of the case, is legal and proper or otherwise.

13. The appellant has contended that payment of interest on IGST is unsustainable as there is no charging provision under the Customs Tariff Act, 1975, authorizing the levy of interest on IGST. In other words, Section 3(12) of the Customs Tariff Act, 1975 (as stood prior to its amendment w.e.f. 16.08.2024) did not borrow the provision for charging interest from the Customs Act, 1962. Further, Section 3(12), as it stood during the period of import and payment of IGST, did not extend the provisions of the Customs Act, 1962, relating to interest on delayed payment of IGST levied under Section 3(7) of the Customs Tariff Act, 1975. The issue pertains to legal interpretation of the 'pre-import condition', which was ambiguous and subsequently clarified only after the Supreme Court's ruling in *Cosmo Films Ltd.* and issuance of the CBIC Circular No. 16/2023-Cus dated 07.06.2023.



14. In this regard, it is observed that the appellant has relied upon various judicial pronouncements to support their claim. However, particular attention is drawn to the decision of the Hon'ble Bombay High Court in **Mahindra and Mahindra Ltd. v. Union of India** [2022-VIL-690-BOM-CU = (2023) 3 Centax 261 (Bom.)], wherein the Court categorically held that in the absence of a specific charging provision under the Customs Tariff Act, the levy of interest and penalty on IGST is unsustainable. Against this Judgment, Customs Department had filed an SLP (C) Diary No. 18824/2023 with Hon'ble Supreme Court. Vide Order dated 28.07.2023, the said SLP has been dismissed by Hon'ble Supreme Court by observing, "We do not find any merit in the Special Leave Petition.". Against this dismissal, Customs Department has filed a Review Petition (C) Diary No. 41195/2023 with Hon'ble Supreme Court; however, the same has also been dismissed vide Order dated 09.01.2024. Thus, the decision of the Hon'ble Bombay High Court in the case of **Mahindra and Mahindra Ltd. (supra)** became final.

15. This view was reaffirmed and applied in the case of **A. R. Sulphonates Pvt. Ltd. v. Union of India** [(2025) 29 Centax 212 (Bom.) = 2025 (4) TMI 578 (Bom.)], where the Hon'ble High Court quashed the demand of interest and penalty on IGST levied under Section 3(7) of the Customs Tariff Act, 1975, and also held that CBIC Circular No. 16/2023-Cus, to the extent it seeks to recover interest, is not legally tenable. Both decisions establish that Section 3(12) of the Customs Tariff Act, prior to its amendment effective from 16.08.2024, did not extend the provisions for charging interest to IGST, thereby rendering such demands devoid of legal authority.

16.1 In this regard, I have perused the aforesaid judgments and the relevant para of the Hon'ble Bombay High Court in the case of **A.R. Sulphonates Pvt. Ltd. vs. Union of India** (supra) are reproduced below (emphasis supplied):

"70. In our view, for all the reasons stated hereinabove, the impugned Order, to the extent that it **levies interest and penalty, is without the authority of law and is liable to quashed and set aside.**

71. As far as Circular No. 16/ 2023-Customs dated 7th June, 2023 is concerned, it seeks to recover interest along with IGST. The relevant part of the said Circular reads as under:-

"(a). for the relevant imports that could not meet the said pre-import condition and are hence required to pay IGST and Compensation Cess to that



extent, the importer (not limited to the respondents) may approach the concerned assessment group at the POI with relevant details for purposes of payment of the tax and cess along with applicable interest."

72. In our view, for all the reasons stated herein above, the said Circular, to the extent that **it seeks to recover interest, is bad in law.**

73. As far as redemption fine imposed by the impugned Order is concerned, the same is demanded in lieu of confiscation of goods under Section 111(o) of the Customs Act. As per Section 111(o) of the Customs Act, the goods shall be liable for confiscation in the event the condition subject to which the goods are exempted from duty is not observed. As already held by us on the basis of the Judgement of the Hon'ble Supreme Court in the case of Orient Fabrics Limited (supra), Section 3 (12) of the Tariff Act, after its amendment by Finance (No.2) Act, 2024, dated 16th August, 2024, makes applicable the provisions relating to interest, offences and penalties of the Customs Act to the Tariff Act. As already held by us, **Section 3 (12) of the Tariff Act, as amended, is applicable only after 16th August, 2024** and is not applicable to the present case. Accordingly, in the present case, no confiscation could have been imposed.

74. Further, the Joint Director General of Foreign Trade, by Trade Notice No. 7 of 2023-24 dated 8th July, 2023 clarified that all imports made under the Advance Authorization Scheme on or after 13th October, 2017 and upto and including 9th January, 2019, which could not meet the pre-import condition, may be regularized by making payments as prescribed in the Customs Circular No. 16/2023 - Customs dated 7th June, 2023. For this reason also, no confiscation can be done nor any redemption fine can be imposed.

75. Further, in the present case, once the Petitioner pays the IGST, it would amount to the Petitioner not having availed the benefit of the exemption and the issue would be regularized. Therefore, the provisions of Section 111 (o) of the Customs Act will not be attracted. Consequently, no fine and penalty would be recoverable from the Petitioner.

76. For all the aforesaid reasons, we pass the following orders:-



- (i) *It is declared that Circular No.16 of 2023-Customs dated 7th June, 2023, to the extent that it purports to levy interest upon the IGST payment, is beyond the provisions of the Customs Tariff Act, 1975 and is bad in law;*
- (ii) *The impugned Order dated 1st August, 2024, to the extent that it seeks to recover interest, confiscate goods, impose redemption fine and impose penalty, is quashed and set aside;*
- (iii) *It is declared that the amendment to the provisions of Section 3 (12) of the Customs Tariff Act, 1975 by Finance (No.2) Act, 2024 dated 16th August, 2024 is prospective in nature and is applicable only from 16th August, 2024 onwards;*

... ..”

16.2 In view of the above, it is observed that the issue involved in the aforesaid judgments is identical in nature and squarely covers the present case as they had also dealt with the levy of interest on IGST as in the present case. Further, at the time of passing the impugned order-in-original dated 06.09.2024, the judgment dated 09.04.2025 of Hon'ble Bombay High Court in the case of A. R. Sulphonates Pvt. Ltd. (supra) was not available. Therefore, the adjudicating authority had no opportunity of examine the present case in light of the said Judgment. The decisions relied upon by the adjudicating authority in the impugned order are regarding levy of interest/penalty on Cess or Additional Duty, but none of them is regarding levy of interest on IGST prior to 16.08.2024. Whereas, the Judgment dated 09.04.2025 of Hon'ble High Court of Bombay in the case of **A.R. Sulphonates Pvt. Ltd.** [(2025) 29 Centax 212 (Bom.)] specifically deals on this issue, which is involved in the present case. Therefore, I am of the considered view that the matter needs to be remanded back to the adjudicating authority, who shall examine the facts of the case and decide the issue on the basis of the aforesaid Judgments.

17. In view of the discussions made above, I allow the appeal by way of remand to the adjudicating authority with the direction to pass the fresh speaking order in light of the aforesaid judgments. As regards powers of Commissioner (Appeals) to remand cases, I 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 orders of Hon'ble Tribunal in case of Prem Steels P. Ltd. [2012-TIOL-1317-CESTAT-DEL] and Hawkins Cookers Ltd. [2012 (284) E.L.T. 677 (Tri. – Del)]



wherein it has been 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.

18. The appeal is allowed by way of remand.



A. Gupta

(AMIT GUPTA)
COMMISSIONER (APPEALS)
CUSTOMS, AHMEDABAD

F. No. S/49-234/CUS/AHD/2024-25

Dated 26.09.2025

By email (as per Section 153(1)(c) of the Customs Act, 1962)

To
M/s. Meghmani Pigments,
11th floor, JMC House, Opp. Parimal Garden,
Ellis Bridge, Ahmedabad - 380006.
(email: exports@meghmanigroup.com)

Copy to:

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, Dist. Gandhinagar.
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4. Shri Vaibhav Jajoo, Advocate, Ahmedabad
(email: vaibhav.jajoo@dhruvaadvisors.com)
5. Guard File.

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