



सीमाशुल्क(अपील) आयुक्तकाकार्यालय,

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), अहमदाबाद AHMEDABAD.

चौथी मंज़िल 4th Floor, हडकोभवन HUDCO Bhavan, ईश्वर भुवन रोड IshwarBhuvan Road,
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009 दूरभाषक्रमांक Tel. No. 079-
26589281

DIN – 20250571MN000000000A

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| क | फ़ाइलसंख्या FILE NO. | S/49-430/CUS/AHD/24-25 S/49-431/CUS/AHD/24-25 |
| ख | अपीलआदेशसंख्या ORDER-IN- APPEAL NO. (सीमाशुल्कअधिनियम, 1962 कीधारा 128ककेअंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962): | AHD-CUSTM-000-APP- 35-36-2025-26 |
| ग | पारितकर्ता PASSED BY | Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad |
| घ | दिनांक DATE | 20.05.2025 |
| ङ | उद्भूतअपीलआदेशकीसं. वदिनांक ARISING OUT OF ORDER-IN- ORIGINAL NO. | OIO No. 02/AR/ADC/TUMB/2023-24, dated 23.11.2023 passed by the Additional Commissioner of Customs, ICD-Tumb |
| च | अपीलआदेशजारीकरनेकीदिनांक ORDER- IN-APPEAL ISSUED ON: | 20.05.2025 |
| छ | अपीलकर्तानामवपता NAME AND ADDRESS OF THE APPELLANT: | 1. M/s Hamilton Writing Instruments Pvt. Ltd. Plot No. 49/50, Survey No. 66/1, Dhanudyog Industrial Estate, Piparia Silvassa, Dadar & Nagar Haveli- 396230. 2. M/s CBX Logistics, D-2123, Oberoi Garden estate, Chandivali Farm Road, Sani Kaka, Andheri East, Mumbai- 400072 |



1. यहप्रतिउसव्यक्तिकेनिजीउपयोगकेलिएमुफ्तमेंदीजातीहैजिनकेनामयहजारीकियागयाहै.

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| 2. | सीमाशुल्कअधिनियम 1962 कीधारा 129 डीडी (1) (यथासंशोधित) केअधीननिम्नलिखितश्रेणियोंकेमामलोंकेसम्बन्धमेंकोईव्यक्तिइसआदेशसेअपनेकोआहतमहसूसकरताहोतोइसआदेशकीप्राप्तिकीतारीखसे 3 महीनेकेअंदरअपरसचिव/संयुक्तसचिव (आवेदनसंशोधन), वित्तमंत्रालय, (राजस्वविभाग) संसदमार्ग, नईदिल्लीकोपुनरीक्षणआवेदनप्रस्तुतकरसकतेहैं। |
| | 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. |
| | निम्नलिखितसम्बन्धितआदेश/Order relating to : |
| (क) | वैगेजकेरूपमेंआयातितकोईमाल. |
| (a) | any goods imported on baggage. |
| (ख) | भारतमेंआयातकरनेहेतुकिसीवाहनमेंलादागयालेकिनभारतमेंउनकेगन्तव्यस्थानपरउतारेनगएमालयाउसगन्तव्यस्थानपरउतारेजानेकेलिएअपेक्षितमालउतारेनजानेपरयाउसगन्तव्यस्थानपरउतरेगएमालकीमात्रामेंअपेक्षितमालसेकमीहो. |
| (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) | सीमाशुल्कअधिनियम, 1962 केअध्यायX तथाउसकेअधीनबनाएगएनियमोंकेतहतशुल्कवापसीकीअदायगी. |
| (c) | Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder. |
| 3. | पुनरीक्षणआवेदनपत्रसंगतनियमावलीमेंविनिर्दिष्टप्रारूपमेंप्रस्तुतकरनाहोगाजिसकेअन्तर्गतउसकीजांचकीजाएगी औरउसकेसाथनिम्नलिखितकागजातसंग्रहोनेचाहिए : |
| | 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) | कोर्टफीएक्ट, 1870केमदसं.6 अनुसूची 1 केअधीननिर्धारितकिएगएअनुसारइसआदेशकी 4 प्रतियां, जिसकीएकप्रतिमेंपचासपैसेकीन्यायालयशुल्कटिकटलगाहोनाचाहिए. |
| (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) | सम्बद्धदस्तावेजोंकेअलावासाथमूलआदेशकी 4 प्रतियां, यदिहो. |
| (b) | 4 copies of the Order-in-Original, in addition to relevant documents, if any |
| (ग) | पुनरीक्षणकेलिएआवेदनकी 4 प्रतियां |
| (d) | 4 copies of the Application for Revision. |
| (घ) | पुनरीक्षणआवेदनदायरकरनेकेलिएसीमाशुल्कअधिनियम, 1962 (यथासंशोधित) मेंनिर्धारितफीसजोअन्यरसीद, फीस, दण्ड, जब्तीऔरविविधमदोंकेशीर्षकेअधीनआताहैमेंरु. 200/- (रूपएदोसौमात्र) या रु. 1000/- (रूपएएकहजारमात्र), जैसाभीमामलाहो, सेसम्बन्धितभुगतानकेप्रमाणिकचलानटी.आर.6 कीदोप्रतियां यदिशुल्क, मांगागयाब्याज, लगायागयादंडकीराशिऔररूपएएकलाखयाउससेकमनहोतोऐसेफीसकेरूपमेंरु. 200/- औरयदिएकलाखसेअधिकहोतोफीसकेरूपमेंरु. 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. | मदसं. 2 केअधीनसूचितमामलोंकेअलावाअन्यमामलोंकेसम्बन्धमेंयदि कोईव्यक्तिइसआदेशसेआहतमहसूसकरताहोतोवेसीमाशुल्कअधिनियम 1962 कीधारा 129 ए (1) केअधीनफॉर्मसी.ए.-3 मेंसीमाशुल्क, केन्द्रीयउत्पादशुल्कऔरसेवाकरअपीलअधिकरणकेसमक्षनिम्नलिखितपतेपरअपीलकरसकतेहैं |



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| | 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 अधि करण, पश्चिमी क्षेत्रीय पीठ | Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench |
| दूसरी मंजिल, बहुमाली भवन, निकट गिरधर नगर पुल, असार वा, 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 कि सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लागाया 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 कि सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लागाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पाँच 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 कि सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लागाया 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 रखी जाएगी। |
| (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 अगलतियों 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

Two appeals, as per details given in Table below, have been filed in terms of Section 128 of the Customs Act, 1962 against Order-in-Original (OIO) No. 02/AR/ADC/TUMB/2023-24, dated 23.11.2023 (hereinafter referred to as "impugned order") passed by the Additional Commissioner of Customs, ICD-Tumb (hereinafter referred to as "adjudicating authority"):-

| Sr. No. | Appeal File No | Name of the Appellant | Hereinafter referred to as |
|---------|----------------------------|--|----------------------------|
| 1 | S/49-430/ CUS/ AHD/2023-24 | M/s Hamilton Writing Instruments Pvt. Ltd. Plot No. 49/50, Survey No. 66/1, Dhanudyog Industrial Estate, Piparia Silvassa, Dadar & Nagar Haveli- 396230. | Appellant No. 1 |
| 2 | S/49-431/CUS/ AHD/2023-24 | M/s CBX Logistics, D-2123, Oberoi Garden estate, Chandivali Farm Road, Sani Kaka, Andheri East , Mumbai- 400072 | Appellant No. 2 |

2. Briefly stated, facts of the case are that the Appellant No. 1 had imported various consignments of glass lids (hereinafter referred to as "impugned goods") during the period June 2018 and March 2023 at ICD Tumb. These impugned goods were made of toughened glass with stainless steel rims and bakelite knobs, were intended for use with cookware. Appellant No. 1 had classified the goods under Customs Tariff Heading (CTH) 7010 20 00 as "glass stoppers, lids and other closures," which attracted a Basic Customs Duty (BCD) of 10%. It appeared that the Appellant No. 1 had been mis-declaring the impugned goods under CTH 7010 instead of CTH 7013 which attracted 20% BCD. Further, during the scrutiny it was revealed that the Appellant No. 1 had filed 5 Bills of Entry during the said period through their customs broker i.e. Appellant No. 2.

2.1 Further, it appeared that the impugned goods are extensively found in cookware, ovenware, kitchenware, and household ware and are usually used for heating, cooking, steaming and baking. It appeared that the glass lids are "kitchen/ cooking glassware" and that it merits classification under Heading 7013 whereas Heading 7010, specifically provides for certain glass containers used for the conveyance or packing of goods and also includes closures for the type of containers provided for in heading 7010. It appeared that the closures / Lids/stoppers described in the Headings of 7010 does not include other glass containers being domestic glassware/kitchenware. Therefore, it appeared that the Appellant No. 1 had failed to self-assess the correct duty and have misclassified the goods under CTH 7010 instead of appropriate and correct CTR



7013 with an intention of availing Tower BCD rate of 10% instead of correct BCD rate of 20% resulting in evasion of Customs duty. Therefore, the impugned goods imported which were self-assessed and cleared with declared assessable value of Rs. 81,71,649/- appeared to be liable for confiscation under the provisions of Section 111(m) & Section 111(o) of the Customs Act, 1962 and the Appellant No. 1 rendered themselves liable for penal provisions under Section 112(a) and 114 A and 114 AA of the Customs Act, 1962.

2.2 Appellant No. 1 through Appellant No. 2 had filed the instant bills of entry and it appeared that the CTH of imported goods is mis-declared to take undue benefit. They had mentioned CTH 7010 which attracted 10% BCD on the goods imported by them through the instant bill of entries. Appellant No. 2, who is authorize to work on behalf of the Appellant No. 1, are bestowed upon to file correct Bills of Entry on behalf of the Appellant No. 1. Further, it was the obligation of the Appellant No. 2 to exercise due diligence to ascertain the correctness of any information which they impart to Appellant No. 1 with reference to any work related to clearance of cargo. However, it appeared that in spite of knowing the facts that goods imported by the Appellant No. 1 attracts BCD at 20%, the Appellant No. 2 had failed to comply their obligations mentioned at 10(d), 10(e) and 10 (m) of the Customs Broker Licensing regulations, 2018 and rendered themselves liable for penalty under Section 117 of the Customs Act, 1962.

2.3. After the completion of investigation, a Show Cause Notice F. No. VIII/10-33/ICD-Tumb/O&A/HQ/2023-24 dated 08.06.2023 was issued to the Appellant Nos. 1 and 2 proposes as to why:

- i. The declared classification of the subject goods under CTH 7010 in the Bills of Entry should not be rejected and the goods should not be re-classified and re-assessed under CTH 7013 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975);



- ii. the differential BCD amounting to Rs.8,57,165/- should not be recovered from Appellant No. 1 under Section 28(4) of the Customs Act, 1962;

- iii. the differential SWS amounting to Rs. 85,716/- should not be recovered from Appellant No. 1 under Section 28(4) of the Customs Act, 1962;

- iv. the differential IGST amounting to Rs.1,69,719/- should not be recovered from Appellant No. 1 under Section 28(4) of the Customs Act, 1962;

- v. All the goods imported vide Bills of Entry which were self-assessed

by Appellant No. 1 and have already been cleared, having assessable value of Rs. 81,71,649/- should not be held liable to confiscation under Section 111 (m) & Section 111(o) of the Customs Act, 1962. Since the said goods are already cleared and are not available for confiscation, why fine in lieu of confiscation should not be imposed on them under Section 125 of the Customs Act, 1962

- vi. appropriate Interest on above said amount should not be recovered from Appellant No. 1 under Section 28AA of the Customs Act, 1962;
- vii. Penalty should not be imposed upon Appellant No. 1 under Section 112A, 114A and 114AA of the Customs Act, 1962.
- viii. Penalty should not be imposed upon Appellant No. 2 under Section 117 of the Customs Act, 1962.

3. Thereafter, the adjudicating authority vide the impugned order held that the Appellant No. 1 had mis-declared the impugned goods under CTH 7010 instead of CTH 7013 to evade the higher rate of Customs duties and also held that Appellant No. 2 had failed to comply their obligations and passed the following order:

- a) He rejected the declared classification of the subject goods under Customs Tariff Heading No. 70102000 by Appellant No. 1 in the Bills of Entry, ordered to re-classify the same under Customs Tariff Heading No. 70139900 of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) and reassess the subject Bills of Entry accordingly;
- (b) He confirmed the demand of differential Customs Duty of Rs. 8,57,165/- and ordered recovery of the same from Appellant No. 1 in terms of the provisions of Section 28(4) of the Customs Act, 1962;
- (c) He confirmed the demand of differential SWS amounting to Rs. 85,716/- and ordered recovery of the same from Appellant No. 1 in terms of the provisions of Section 28(4) of the Customs Act, 1962;
- (d) He confirmed the demand of differential IGST amounting to Rs. 1,69,719/- and ordered recovery of the same from Appellant No. 1 in terms of the provisions of Section 28(4) of the Customs Act, 1962;
- (e) He held the subject goods having assessable value of Rs. 81,71,649/- imported by Appellant No. 1 by mis-classifying the subject goods, liable to confiscation under Section 111(m) of the Customs Act, 1962. However, gave them the option to redeem the goods on payment of Fine of Rs. 8,17,164/- under Section 125 of the Customs Act, 1962;
- (f) He ordered recovery of interest on the above confirmed demand of Customs Duty, SWS & IGST (as at (b), (c) & (d) above) in terms of the



provisions of Section 28AA of the Customs Act, 1962;

(g) He imposed a penalty of Rs. 11,12,600/- on Appellant No. 1 under Section 114A of the Customs Act, 1962; however, in view of the proviso to Section 114(A) of the Customs Act, 1962, provided that where such duty, as determined under section 28, and the interest payable under section 28AA, is paid within thirty days from the date of the communication of this order, the amount of penalty liable to be paid by such person under this section shall be twenty five per cent of the duty so determined, provided further that the benefit of reduced penalty under the first proviso shall be available subject to the condition that the amount of penalty so determined has also been paid within the period of thirty days referred to that proviso;

(h) He imposed a penalty of Rs. 8,17,164/- on Appellant No. 1 under Section 114AA of the Customs Act, 1962.

(i) He imposed a penalty of Rs. 1,00,000/- on Appellant No. 2 under Section 117 of the Customs Act, 1962.

4. Being aggrieved with the impugned order, the Appellants have filed the present appeal and mainly contended the following:

- That the impugned goods were correctly classified under CTH 7010.20.00 ("stoppers, lids and other closures of glass"), which is a specific entry that directly covers such goods. The customs authority's reclassification under CTH 7013 (a general entry for glassware) is incorrect and contrary to established classification rules.
- The doctrine of *ejusdem generis* was wrongly applied. Heading 7010 clearly includes lids and closures as a distinct group, separate from containers or jars.
- That the classification is supported by the HSN Explanatory Notes and the World Customs Organization (WCO) Classification Opinion. (2022), both of which confirm that heat-resistant glass lids used for cookware are classifiable under 7010.20.
- That under Rule 3(a) of the General Rules for Interpretation (GIR), a more specific description must prevail over a general one. Since CTH 7010 specifically covers "glass lids," it should take precedence over the more general CTH 7013.
- That all Bills of Entry clearly described the goods as glass lids, with consistent documentation (invoices, packing lists, etc.). Hence, there was no misdeclaration or suppression of facts, and self-assessment was made in good faith. The extended limitation period under Section 28(4) was wrongly invoked, despite full disclosure of facts in the bills of entry.



A.I-

- Goods were correctly declared and already cleared for home consumption. Hence, confiscation under Section 111(m) is invalid. No goods were seized or released on bond; therefore, redemption fine under Section 125 is not legally tenable.
- No fraud, collusion, or suppression proven; thus, penalties under Sections 114A and 114AA imposed on Appellant No. 1 are not warranted.
- That the Appellant No. 2 and 3, as Customs Brokers, discharged duties responsibly and in good faith. There is no evidence of negligence or willful violation under Regulation 10 of the CBLR, and hence, the penalty under Section 117 is unjustified.
- That the same classification was accepted by customs for several years. The retrospective demand violates the principle of certainty and trust in past clearances.
- They have relied upon the various case laws, few of which are as under:
 - a. M/s. Oberoi Constructions Ltd. and M/s. Oberoi Realty Pvt. Ltd. Versus Commissioner of Customs (Import), Nhava Sheva - 2022 (12) TMI 1339 - CESTAT MUMBAI.
 - b. Mauri Yeast India vs. State of UP - 2008 (225) ELT 321 (SC)
 - c. Manisha Pharma Plasto Vs. UOI (112) ELT 22 (Del.)
 - d. Bharat Forge and Press Industries vs. CCE - 1990 (45) ELT 525 (SC)
 - e. Manisha Pharma Plasto vs. UOI - 1999 (112) ELT 22 (Del.)
 - f. Raja Impex vs. CC - 2008 (229) ELT 185 (P&H HC)

PERSONAL HEARING

5. Shri Vinay Sejpal along with Shri Sanjay Shukla both Advocates, Shri Rakesh Pillai (Partner) attended personal hearing on 13.05.2025 in virtual mode on behalf of the Appellant No. 1 and Appellant No. 2 respectively. They reiterated the submission made in the appeal memorandum and submitted the copy of Judgment of Hon'ble CESTAT Order No. 12525-12586/ 2024 dated 06.11.2024 of Gfluoro Coating Pvt. Ltd. Vs Commissioner of Customs Ahmedabad wherein the Hon'ble CEST in the similar issue has decide the matter.

DISCUSSION & FINDINGS

6. I have gone through the appeal memorandum filed by the appellant, records of the case and submissions made during personal hearing. The main contention in the appeal is whether the imported goods fall under CTH 7010 or CTH 7013. The department contention is that the goods fall under CTH 7013



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whereas the Appellants contention is that the impugned goods fall under CTH 7010. Therefore, the main issues to be decided in present appeal are whether the impugned order classifying impugned goods under CTH 7013, confiscating the goods under Section 111(m) and 111(o), imposing redemption fine under Section 125, confirming duty along with interest under Section 28 and imposing penalty under Section 114A and 114AA of the Customs Act, 1962 on the Appellant No. 1 and imposing penalty under Section 117 of the Customs Act, 1962 on the Appellant No. 2, in the facts and circumstances of the case, is legal and proper or otherwise.

6.1 Before going into the merits of the case, I find that as per CA-1 Form of the Appellant No.1, the present appeal has been filed on 31.01.2024 against the impugned order dated 23.11.2023 received by the Appellant on 05.12.2023 which is within the statutory time limit of 60 days prescribed under Section 128(1) of the Customs Act, 1962. As the appeal has been filed within the stipulated time-limit, it has been admitted and being taken up for disposal in terms of Section 128A of the Customs Act, 1962.

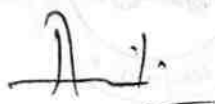
6.1.1 Further, for the Appellant No. 2, the present appeals have not been filed within statutory time limit of 60 days prescribed under Section 128(1) of the Customs Act, 1962.

6.1.2 In this regard, it is relevant to refer the legal provisions governing filing an appeal before the Commissioner (Appeals) and his powers to condone the delay in filing appeals beyond 60 days. Extracts of relevant Section 128 of the Customs Act, 1962 are reproduced below for ease of reference:

SECTION 128. Appeals to [Commissioner (Appeals)]. — (1) Any person aggrieved by any decision or order passed under this Act by an officer of customs lower in rank than a [Principal Commissioner of Customs or Commissioner of Customs] may appeal to the [Commissioner (Appeals)] within sixty days] from the date of the communication to him of such decision or order.

[Provided that the Commissioner (Appeals) may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of sixty days, allow it to be presented within a further period of thirty days.]

Section 128 of the Customs Act, 1962 makes it clear that the appeal has to be filed within 60 days from the date of communication of order. Further, if the Commissioner (Appeals) is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of 60 days, he can allow it to be presented within a further period of 30 days.



6.1.3 It is observed from the Appeal Memorandums that the Appellant No. 2 had received the impugned order on 23.11.2023 and appeal have been filed on 31.01.2024 resulting in a delay of 09 days in filing of appeal beyond the time limit of 60 days prescribed under Section 128(1) of the Customs Act, 1962. Appellants No. 2 have requested for the condonation of delay. In light of the above provisions of law and considering the submissions of the Appellant and also considering the fact that the appeals have been filed within a further period of 30 days. I allow the condonation of delay in filing the appeal, taking a lenient view in the interest of justice in the present appeal.

6.2 Now, I am going to decide the classification of the imported impugned goods. It is observed that the Appellant Nos. 1 and 2 have heavily emphasized on the Judgment cited by the **Hon'ble CESTAT Ahmedabad in the matter of Gfluro Coating Pvt. Ltd. Vs Commissioner of Customs Ahmedabad vide Order No. 12525-12586/ 2024 dated 06.11.2024** and submitted the copy of the same stating that the Hon'ble CESTAT vide the said order has already decided the issue in the same matter and has classified the impugned goods under CTH 7010.

In view of the same, the relevant para of the said Judgment is reproduced as below:

5. On the other hand, heading 7013 does not have any specific entry in respect of Glass Lids, therefore, irrespective of the use of lids if the same is made of glass, the lid is correctly classified under 7010. We find that on this particular issue recourse can be made to Rule 3(a) of General Rules of Interpretation which provides that specific heading has to be given preference to a general heading. In the facts of the present case, undisputedly the lids made of glass is specifically provided in heading No. 7010 and the same is not provided in 7013. Therefore, as per Rule 3(a) of General Rules of Interpretation also „lids of glass“ which is specifically provided under 7010, the same is correct classification. Tariff heading 7013 being a general tariff entry will not prevail over the specific entry. All the submissions made by learned department's authorised representative clearly fail in view of the above interpretation of the tariff entry made on the basis of not only Rule 3(a) but also the various judgments cited by the appellant which are as under:

- Ascent Meditech Ltd. vs CC [2014 (309) ELT 712 (Tri. Amd) upheld by Supreme Court 2015 (320) ELT A281 (SC)]
- Page Industries Ltd. 2022 (382) ELT 130 (Tri. Chennai)
- Moorco (India) Ltd. 1994 (74) ELT 5 (SC)

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• Zymountrients Pvt Ltd. 2020 (372) ELT 458 (Tri.)

As per our above discussion, we are of the view that the appellant have correctly classified the goods namely, "G Type Tempered Glass Lids" under heading 7010. All other issues raised by both the sides are not addressed. As per our above discussion and finding, the impugned order is set aside. Appeals are allowed."

6.3 I find that the matter involved in the case of Gfluro Coating Pvt. Ltd. Vs Commissioner of Customs Ahmedabad, decided by Hon'ble CESTAT Ahmedabad vide Order No. 12525-12586/ 2024 dated 06.11.2024, is identical in nature and squarely covers the present case as they had also dealt with the classification of identical goods as that of the impugned goods in the present case. It is observed that the said Judgment was decided after the issuance of the impugned order. In view of the same, the adjudicating authority shall examine the facts of the case and decide the issue on the basis of the said Judgment of Hon'ble CESTAT, Ahmedabad.

7. In view of the above discussion, I allow both the 02 appeals by way of remand to the adjudicating authority with the direction to pass the fresh speaking order in light of the aforesaid judgment.



(Signature)
(AMIT GUPTA)
COMMISSIONER (APPEALS)
CUSTOMS, AHMEDABAD

F.Nos. S/49-430 to 431/CUS/AHD/23-24

Dated - 20.05.2025

By Registered Post A.D.

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1. M/s Hamilton Writing Instruments Pvt. Ltd. Plot No. 49/50, Survey No. 66/1, Dhanudyog Industrial Estate, Piparia Silvassa, Dadar & Nagar Haveli- 396230.
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Copy to:

1. The Chief Commissioner of Customs Gujarat, Customs House, Ahmedabad.
2. The Pr. Commissioner of Customs, Customs Ahmedabad.
3. The Additional Commissioner of Customs, ICD-Tamb.
4. Guard File.

सत्यापित/ATTESTED

(Signature)
अधीक्षक/SUPERINTENDENT
सीमा शुल्क (अपील), अहमदाबाद.
CUSTOMS (APPEALS), AHMEDABAD

