



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD,  
चौथी मंज़िल 4th Floor, हड्को भवन HUDCO Bhawan, ईश्वर भुवन रोड Ishwar Bhavan Road  
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009  
दूरभाष क्रमांक Tel. No. 079-26589281

DIN – 20250471MN000000B88F

क	फ़ाइल संख्या FILE NO.	S/49-386/CUS/AHD/22-23
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) :	AHD-CUSTM-000-APP-023-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	30.04.2025
ङ	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	03/DC/JUBILANT SEZ/REFUND/2023, dated 16.01.2023
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	30.04.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s Jubilant Ingrevia Ltd., Plot No. P1 – L11 & L18, Jubilant Chemical SEZ, Village – Vilayat, Taluka – Vagra, District – Bharuch – 392 012, 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 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।
(द)	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।
(ख)	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.
(ग)	सम्बद्ध दस्तावेजों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो
(ब)	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 मर्दों के शीर्ष के अधीन आता है में रु. 200/- (रूपए दो सौ मात्र)या रु.1000/- (रूपए एक हजार मात्र), जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां, यदि शुल्क, मांगा गया व्याज, 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 :				
	<table border="0"> <tr> <td style="vertical-align: top;">सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ</td> <td style="vertical-align: top;"><b>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</b></td> </tr> <tr> <td>दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016</td> <td>2<sup>nd</sup> Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016</td> </tr> </table>	सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	<b>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</b>	दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 <sup>nd</sup> Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	<b>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</b>				
दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 <sup>nd</sup> Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016				
5.	<p>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-</p> <p>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 -</p> <p>(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 रुपए.</p> <p>(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;</p> <p>(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; पाँच हजार रुपए</p> <p>(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 ;</p> <p>(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 रुपए.</p> <p>(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</p> <p>(घ) हस 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 ।</p> <p>(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.</p> <p>6. उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए थाँ 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.</p> <p>Under section 129 (a) of the said Act, every application made before the Appellate Tribunal-</p> <p>(a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or</p> <p>(b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.</p>				



Order-In-Appeal

M/s Jubilant Ingrevia Ltd., Plot No. P1 – L11 & L18, Jubilant Chemical SEZ, Village – Vilayat, Taluka – Vagra, District – Bharuch – 392 012, Gujarat (hereinafter referred to as 'the Appellant') have filed the present appeal challenging the Order-In-Original No. 03/DC/JUBILANT SEZ/REFUND/2023, dated 16.01.2023 (hereinafter referred to as 'the impugned order') passed by Deputy Commissioner (Tech), Customs, Ahmedabad (hereinafter referred to as 'the adjudicating authority').

2. Facts of the case, in brief, are that the Appellant had filed refund claim for Rs. 12,21,007/- under Section 27 of the Customs Act, 1962 vide their letter dated 07.12.2021 claiming refund of the Customs duty paid on the stock of goods including capital goods, at the time of final exit by the Appellant, a Special Economic Zone unit and on transfer of goods to M/s. Jubilant Crop Protection Ltd. The details of refund claim filed by the Appellant are as under:-

Sr. No.	Date on which refund claim filed	Amount of duty paid (In Rs.)	TR-6 Challan No. & Date	Amount claimed as refund (In Rs.)
1.	31.12.2021	12,21,007/-	JSEZ/017/21-22 Dated 22.04.2021	12,21,007/-

2.1 The Appellant vide letter dated 07.12.2021 (received on 31.12.2021) have submitted the requisite documents in the respect of the aforesaid refund claim. In view of the Circular No. 11/2017-Cus., dated 31.03.2017 issued by the DGEP, CBEC, New Delhi, verification of the Appellant's letter / refund application dated 07.12.2021 was sought from the Specified Officer, Jubilant Special Economic Zone, Plot No. 5, Vilayat GIDC, Taluka – Vagra, District – Bharuch vide letter F. No. Gen/Tech/Misc/430/2022-Tech dated 01.03.2022. The Specified Officer, Jubilant SEZ, Vilayat GIDC vide letter F. No. JSEZ/JIL-3/Refund/21-22, dated 08.04.2022 submitted his verification report.

2.2 On going through the documents submitted by the Appellant, it appeared that they wanted to exit from the SEZ and accordingly filed a request with the Development Commissioner vide letter dated 01.03.2021. The Development Commissioner asked the Appellant to file Legal Undertaking in Form "L" and furnish "No Dues" letter from the SEZ Developer as well as Specified Officer. The Appellant, vide letter dated 28.04.2021 informed the payment details alongwith stock of goods, including capital goods to the Specified Officer. The Specified Officer, on 29.04.2021 issued "No Dues" letter to the Development Commissioner, who issued Final Exit Order dated 11.05.2021 to the Appellant. Thereafter, M/s. Jubilant Crop Protection Ltd., applied to the Development Commissioner for setting up of new suit in Jubilant SEZ on 24.06.2021 and the Development Commissioner's Office granted LoA on 15.09.2021. On 03.12.2021,





the Appellant transferred the stock of goods, including capital goods, by issuing Invoices to M/s. Jubilant Crop Protection Ltd., SEZ unit.

2.3 It therefore, appeared that the Appellant had made payment vide Challan No. JSEZ/017/21-22 dated 22.04.2021 and Final Exit Order from SEZ was issued to the Appellant on 11.05.2021. Thereafter, M/s Jubilant Crop Protection applied for setting up of new unit in Jubilant SEZ and was granted LoA on 15.09.2021. The Appellant i.e. M/s. Jubilant Ingrevia Ltd., (Unit-3) on 03.12.2021 transferred the stock of goods, including capital goods, by issuing invoices to the SEZ unit and thereafter, filed application for refund of customs duty of Rs. 12,21,007/- on the ground that the goods were transferred from one SEZ unit to another SEZ unit.

2.4 From the above facts, it appeared that the stock of goods, including capital goods, were in the DTA unit i.e., M/s. Juibillant Ingrevia Ltd., on 03.12.2021 (as the Final Exit Order was issued on 11.05.2021) and were transferred to the SEZ unit i.e. M/s. Jubilant Crop Protection and therefore, the supply of goods to SEZ unit should be treated as exports as per Section 2 (m) (ii) of the SEZ Act, 2005.

2.5 Therefore, a Show Cause Notice was issued under F. No. GEN/TECH/MISC/430/2022-Tech, dated 13.06.2021 to the Appellant proposing as to why the refund application of the Appellant should not be rejected as the goods were transferred from the DTA unit, i.e., M/s. Jubilant Ingrevia Ltd., to SEZ Unit, i.e., M/s. Jubilant Crop Protection.

2.6 The adjudicating authority vide the impugned order has rejected the refund claim of Rs. 12,21,007/- filed by the Appellant, i.e., M/s. Jubilant Ingrevia Ltd. (earlier known as M/s. Jubilant Life Sciences Limited – Unit – 3) under Section 27 of the Customs Act, 1962.

3. Being aggrieved with the impugned order passed by the Adjudicating Authority, the Appellant have filed the present appeal. They have, inter-alia raised various contentions and filed detailed submissions as given below in support of their claims:

- That no bill of entry was allowed to be filed as the goods did not cross the Plot No. P1-L11 & L.18 of Jubilant SEZ;
- That until the goods cross the SEZ area, any duty is not payable and if any amount was paid it was due to hassle free transfer of business from one company to another company (subsidiary of first company), and amount paid as custom duty is refundable to appellant as the goods were sold to another SEZ unit and no duty was payable;



11

- That the adjudicating authority has rejected the refund claim on the ground that assessment or self-assessment for making payment of duties by them at the time of exit out of SEZ in accordance with provisions of Rule 74 of the SEZ Rules, 2006, has not been modified in accordance with law. Therefore, in view of the judgement of the Hon'ble Apex Court in the case of ITC Limited, it is not open for this authority to set aside or modify the said assessment or self-assessment during the proceedings of examining admissibility of Refund claim under Section 27 of the Custom Act, 1962.
- That in the present case, they were not even allowed to file a bill of entry and had no option but to pay duty for transfer of the goods from SEZ unit of Jubilant Ingrevia Limited to SEZ unit of Jubilant Crop Protection Limited; that the duty was deposited as per the direction of the official without filing bill of entry basis of a challan. Since, no bill of entry was filed in this case, there was no assessment of bill of entry under Section 17 of the Customs Act 1962; that if a bill of entry may have been filed, definitely they would have gone for re-assessment of the bill of entry before filing the refund claim. Hence the decision of the Hon'ble Supreme court is not applicable to facts of the present case;
- That the adjudicating authority in para 13.3 clearly stated that no bill of entry is required to be filed in this case as goods were transferred only to another SEZ Unit within the same premises. Hence, the authority cannot ask them to re-assess the Bill of Entry and therefore the ground of rejection of refund is contradictory;
- That even if the customs duties are required to be paid by the SEZ Unit while removing the goods into DTA, as far as removal of capital goods or inputs imported are concerned, full rate of customs duties i.e. Basic Customs Duty + Surcharge + IGST are required to be paid on such imported capital goods (on depreciated value) and inputs being removed into DTA whereas as far as removal of capital goods or inputs indigenously procured (from DTA) are concerned, only IGST is required to be paid and not full rate of customs duties. In the present case, the Appellant has paid full rate of customs duty even on capital goods and inputs procured from DTA (indigenous), which is paid only for the reason of expediting the No objection Certificate from Customs and as insisted by the Customs Authorities of SEZ and also such duties are not at all payable under the prevailing laws since the said goods whether imported or domestically procured (from DTA) were never removed out of SEZ into DTA and hence such customs duties wrongly paid is liable to be refunded suo moto;
- That the Customs Authorities of the SEZ have denied to file the Bill of Entry for accepting such payments and when Bill of Entry itself is not filed nor assessed, any payment of customs duties paid is treated as advance/pre-deposit payment only. As per Section 46 (5) (2) of the Customs Act, 1962, the importer shall pay the import duty - (a) on the date of presentation of the Bill of Entry in the case of self-assessment; or (b) within one day (excluding holidays) from the date on which the




Bill of Entry is returned to him by the proper officer for payment of duty in the case of assessment, reassessment or provisional assessment. It means without filing and assessment of the Bill of Entry, any payment made cannot be treated as Customs duties payment and any such payment made wrongly without filing of Bill of Entry & without assessment thereof (which was denied by the Customs Authorities of the SEZ) shall be treated as advance / pre-deposit payment only and not as Customs duty payment and on this ground alone, the Customs duties which was wrongly demanded by the Customs Authorities and paid shall be immediately refunded to the appellant;

- Government of India introduced SEZ Law for hassle free business and to encourage exports of goods without payment of tax and duties from SEZ Unit in place of realizing the duty on procedural issues. The purpose of introducing SEZ Law was to make Indian products competitive in the international market. Whole purpose of Government of India is defeated by officials by demanding duties on untenable grounds;
- Rule 30 (15) of the SEZ Rules merely prescribes the procedure for procurement of goods from units located in the same or different SEZ. This is not the relevant rule for the purpose of grant or rejection of the customs refunds;
- They have filed the claim under Section 27 of the Customs Act and the applicable rules thereunder. Therefore rejection of the claim based on non-availability of a provision under Rule 30 (15) is incorrect and order liable to be set aside.

#### **PERSONAL HEARING:**

4. Personal hearing in the matter was held on 13.01.2025 in virtual mode. Shri Govind Agarwal, Director (Indirect Tax), appeared for hearing on behalf of the Appellant. He had reiterated the submissions made at the time of filing of appeal. Due to change in Appellate Authority, personal hearing was again held on 29.04.2025 in virtual mode. Shri Govind Agarwal, Director (Indirect Tax), appeared for hearing on behalf of the Appellant and reiterated the submissions made at the time of filing of appeal.

#### **DISCUSSION & FINDINGS:**

5. I have carefully gone through the appeal memorandum as well as records of the case and the submissions made by the Appellant during the course of hearing. The issue to be decided in the present appeal is whether the impugned order passed by the adjudicating authority rejecting the refund claim filed by the Appellant, in the facts and circumstances of the case, is legal and proper or otherwise.

5.1 Being aggrieved, the Appellant has filed the present appeal on 17.03.2023, in the Form C.A.-1, the date of communication of the Order – In – Original, dated



16.01.2023 has been shown as 28.01.2023. Therefore, the appeal has been filed within normal period of 60 days, as stipulated under Section 128 (1) of the Customs Act, 1962. Further, the appeal has been filed against the rejection of the refund, hence, the requirement of pre-deposit is not applicable in the present case. As the appeal has been filed within the stipulated time - limit and the mandatory pre-deposit is not applicable, it has been admitted and being taken up for disposal on merits.

6. As the issue in hand pertains to as to whether the Customs Duty paid by the Appellant on exit from SEZ shall be required to be refunded back or otherwise. In this regard, it is relevant to refer to Rule 74 of the SEZ Rules, 2006, which is reproduced below for ease of reference:

**"Exit of Units: (1) The Unit may opt out of Special Economic Zone with the approval of the Development Commissioner and such exit shall be subject to payment of applicable duties on the imported or indigenous capital goods, raw materials, components, consumables, spares and finished goods in stock;**

*Provided that if the Unit has not achieved positive Net Foreign Exchange, the exit shall be subject to penalty that may be imposed under the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992)*

(2) *The following conditions shall apply on the exit of the Unit, namely:-*

(i) *Penalty imposed by the competent authority would be paid and in case an appeal against an order imposing penalty is pending, exit shall be considered if the Unit has obtained a stay order from competent authority and has furnished a Bank Guarantee for the penalty adjudicated by the appropriate authority unless the Appellate Authority makes a specific order exempting the Unit from this requirement;*

(ii) *In case the Unit has failed to fulfill the terms and conditions of the Letter of Approval and penal proceedings are to be taken up or are in process, a legal undertaking for payment of penalties, that may be imposed, shall be executed with the Development Commissioner;*

(iii) *The Unit shall continue to be treated a Unit till the date of final exit.*

(3) *In the event of a gems and jewelry Unit ceasing its operation, gold and other precious metals, alloys, gem and other materials available for manufacture of jewelry shall be handed over to an agency nominated by the Central Government at a price to be determined by that agency.*

(4) *Development Commissioner may permit a Unit, as one time option, to exit from Special Economic Zone on payment of duty on capital goods under the prevailing Export Promotion Capital Goods Scheme under the Foreign*



*Trade Policy subject to the Unit satisfying the eligibility criteria under that Scheme.*

(5) *Depreciation norms for capital goods shall be as given in sub-rule (1) of rule 49*

(6) *The Unit opting out from Special Economic Zone shall execute a legal undertaking in Form L.J"*

6.1 On perusal of the sub-rule (1) of Rule 74 of the SEZ Rules, 2006, it is apparent that the unit may opt out of SEZ with the approval of the Development Commissioner and such exit shall be subject to payment of applicable duties on the indigenous Capital goods, raw materials, components, consumables, spares and finished goods in stock.

6.2 Considering the facts of the case, it is evident that the Appellant had opted to exit from the SEZ and as a result, paid the Customs Duty of Rs. 12,21,007/- on the stock of goods including the capital goods. Furthermore, it is undisputed that the Development Commissioner, Kandla – SEZ, has considered the final exit to the Appellant in accordance with the conditions stipulated under Rule 74 of the SEZ Rules, 2006 on the basis of the confirmation from the Specified Officer that there was no outstanding dues pending for recovery from the Appellant. Thus, in view of the above facts and legal provisions of SEZ Rules, I am of the considered view that since the payment of Customs duty payment made by the Appellant was a legal prerequisite for the final exit from SEZ in terms of the conditions envisaged in Rule 74 of the SEZ Rules, 2006, the Appellant is not entitled for a refund of the amount paid. In view of the above, I agree with the observations and findings of the adjudicating authority and do not find any justification to interfere with the findings in the impugned order passed by the adjudicating authority.

6.3 It has been further contended by the Appellant that the decision of the Hon'ble Supreme Court of India in the case of M/s. ITC is not applicable in this case. However, I find that the ratio of the above said decision is squarely applicable in this case inasmuch as the assessment for making payment of duties by the Appellant arising out at the time of exit from SEZ have not been modified / challenged by the Appellant. It is not disputed that the assessment for making payment of Customs duty was made by the Appellant in terms of Section 74 of the SEZ Rules, 2006. Hence, I am of the considered view that the assessment has attained finality and cannot be reopened by way of claiming refund, as held by the Hon'ble Supreme Court in the ITC case. The facts remains that the Appellant had accepted the assessment and did not challenge it by filing appeal. Merely stating that the duty was deposited for expediting the No objection Certificate and as per the directions of the official without filing of Bill of Entry, will not entitle the benefit to the Appellant without taking consequential and necessary steps by challenging the



A 12

assessment. Hence, I am of the considered view that without challenging the final assessment, the refund claim could not be entertained. In view thereof, I do not find any infirmity in the findings of the adjudicating authority.

7. In view of the above discussions, the findings and observations of adjudicating authority are required to be upheld.

8. Accordingly, the appeal filed by the Appellant is rejected.



F. No. S/49-386/CUS/AHD/2022-23

सत्यापित/ATTESTED

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

123

(Amit Gupta)  
Commissioner (Appeals),  
Customs, Ahmedabad

Date: 30.04.2025

By Registered post A.D

To,  
M/s Jubilant Ingrevia Ltd.,  
Plot No. P1 – L11 & L18,  
Jubilant Chemical SEZ,  
Village – Vilayat,  
Taluka – Vagra,  
District – Bharuch – 392 012,  
Gujarat

Copy to:

- 1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.
- 2. The Principal Commissioner of Customs, Custom House, Ahmedabad.
- 3. The Deputy Commissioner (Tech), Customs, Ahmedabad.
- 4. Guard File.