



सीमाशुल्क (अपील) आयुक्तका कार्यालय, अहमदाबाद

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD
चौथी मंजिल 4th Floor, हडको बिल्डिंग HUDCO Building, ईश्वर भुवन रोड Ishwar Bhuvan Road,
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009.

दूरभाष क्रमांक Tel. No. 079-26589281

DIN-20250971MN0000616066

क	फ़ाइल संख्या FILE NO.	F.No. S/49-319/CUS/AHD/2023-24
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-268-25-26
ग	पारितकर्ता PASSED BY	SHRI AMIT GUPTA Commissioner of Customs (Appeals), AHMEDABAD
घ	दिनांक DATE	26.09.2025
ड	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER - IN - ORIGINAL NO.	Reassessment of Bill of Entry No. 3499463 dated 09.04.2021 filed with Customs, Hazira port, Surat.
	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. Bhavin Industries (presently known as M/s. Coroplast Industries) Survey No. 180, Udwada Pariya Road, Village - Dungri, Taluka - Pardi, Valsad - 396185.
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/- (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 दोप्रतियां। 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, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench



	दूसरी मंजिल, 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 रुपए.	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 रुपए	
(ब)	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 रुपए.	
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees	
(घ)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के 10 % अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के 10 % अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा।	
(d)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.	
6.	उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal-
	(a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or (b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.	



ORDER-IN-APPEAL

M/s. Bhavin Industries (presently known as M/s. Coraplast Industries), Survey No. 180, Udwada Pariya Road, Village – Dungri, Taluka – Pardi, Valsad – 396185 (hereinafter referred to as 'the appellant' or 'the importer') has filed the present appeal against Re-assessment of Bill of Entry No. 3499463 dated 09.04.2021 filed with Customs, Hazira port, Surat (hereinafter referred to as 'the impugned Bill of Entry').

2. Facts of the case, in brief, are that the appellant had imported of Calcium Carbonate under Advance Authorisation Scheme without payment of Customs duties including IGST leviable under Section 3(7) of the Customs Tariff Act, 1975. The appellant 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.) = 2023 (5) TMI 42-SC], it was settled that the 'Pre-import condition' for imports under Advance Authorisation is valid and required to be fulfilled. Whereas, in the present case, the appellant has not complied with the pre-import condition.
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 approached Customs Department for re-assessment of impugned Bill of Entry. While reassessment, the IGST exemption amounting to Rs.5,07,101/- has been surrendered and the appellant has voluntarily paid IGST. Further, during re-assessment, **Interest of Rs.1,001/-** on IGST was automatically calculated by the EDI System, which is stated to have been paid by the appellant under protest.
4. Being dissatisfied and aggrieved towards assessment of interest on IGST in the re-assessed Bill of Entry, the appellant has filed the present appeal. I have carefully gone through the appeal memorandum and the written submissions dated 06.08.2025 submitted by/on behalf of the appellant. The appellant relied upon various decisions, including Judgment of Hon'ble Bombay High Court in the case of **Mahindra and Mahindra Limited** [(2023) 3 Centax 261 (Bom.) = 2022-VIL-690-BOM-CU] which was affirmed by Hon'ble Supreme Court; as well as Judgment of Hon'ble Bombay High Court in the case of **A.R. Sulphonates vs. Union of India** [2025 (4) TMI 578 = (2025) 29 Centax 212 (Bom.)]. In view of these as well as other decisions, the appellant contended that interest is not payable on



delayed payment of IGST prior to amendment of Section 3(12) of the Customs Tariff Act, 1975, w.e.f. 16.08.2024. Therefore, the appellant has sought to set aside the order of re-assessment of the impugned Bill of Entry to the extent it levy interest on IGST and sought refund of interest so paid by them with applicable interest.

5. As the appeal has been filed against re-assessment of Bill of Entry and after payment of duty/interest, pre-deposit under the provisions of Section 129E of the Customs Act, 1962, does not require for filing of appeal.

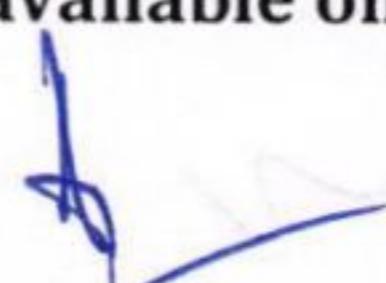
Personal Hearing

6. Personal Hearings in this matter were scheduled on **30.04.2025, 17.06.2025, 26.06.2025 and 07.08.2025**, but no one has appeared to attended the same. However, vide email dated 06.08.2025, Ms. Madhur Azad, Senior Associate of M/s. Lakshmikumaran Sridharan Attorneys, has informed that they are advocates appearing on behalf of M/s. Bhavin Industries (presently known as Coroplast Industries); that considering the amount of IGST and interest involved in the matter, they do not intend to attend the hearing. She requested that an order be passed based on the written submissions and appeal already filed.

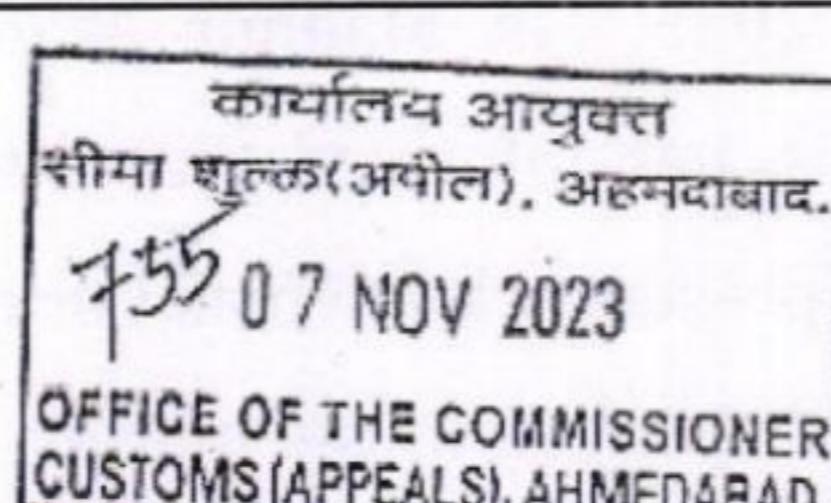
Discussion regarding time-limit for filing appeal

7. It is to be decided as to whether the present appeal has been filed within the time-limit, as prescribed under the provisions of Section 128(1) of the Customs Act, 1962 or not. Section 128(1) states that an appeal before Commissioner (Appeals) can be filed within sixty days from the date of communication of decision or order. In the present cases, no speaking order has been passed. However, the appellant has filed appeal against the re-assessment of Bill of Entry. As per Section 2(2) of the Customs Act, 1962, the term 'assessment' includes 're-assessment' among other things. Assessment of Bill of Entry can be treated as decision or order; and appeal against assessment (including self-assessment and re-assessment) can be filed by importers with appellate authority as held by Hon'ble Supreme Court in the case of **ITC Ltd. Vs. Commissioner of Central Excise, Kolkata-IV [2019 (368) E.L.T. 216 (S.C.)]**. So, the appeal against assessment is required to be filed within 60 days or within condonable period of further 30 days, from the date of communication of assessment as per Section 128(1) of the Customs Act, 1962.

8. It is to be ascertained on which date the Re-assessment of the impugned Bill of Entry has been communicated to the appellant. Section 153 of the Customs Act, 1962, prescribes **modes for services of notice, order etc.** As per **clause (ca)** of Sub-Section (1) of Section 153, an order, decision etc. may be served by **making it available on the common portal**.



As per Section 2(7B) of the Customs Act, 1962, the term 'common portal' has been defined as Common Customs Electronic Portal referred to in Section 154C. Notification No. 33/2021-Cus (NT) dated 29.03.2021 has been issued under the provisions of Section 154C, through which the URL <https://icegate.gov.in> has been notified as 'common portal'. So, I am of the view that the Assessment/Re-assessment of Bill of Entry done through Customs EDI System and made available in the common portal ICEGATE are to be treated as served to the appellant as per the provisions of Section 153(1)(ca) of the Customs Act, 1962, as amended by the Finance Act, 2021. So, the appellant was required to file appeal within the normal period of 60 days or within further condonable period of 30 days from the date the re-assessment. In the present case, at Sr.No.4 of the Form C.A.-1, the appellant has mentioned the particulars of "Date of communication of the decision or order appeal against to the Appellants" as under:

 OFFICE OF THE COMMISSIONER CUSTOMS (APPEALS), AHMEDABAD.	
FORM C.A.1 BEFORE THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD 4TH FLOOR, HUDCO BHAWAN, ISHWAR BHUVAN ROAD, NAVRANGPURA, AHMEDABAD- 380009	
1.	No.
2.	Name and address of the Appellants. Bhavin Industries (presently known as Coroplast Industries) Survey No 180 Udwada Pariya Road, Village- Dungri, Taluka - Pardi Valsad, Gujarat 396185 Nishith Parikh Email: nishith.parikh@coroplast.com Phone: +91 7434936378
3.	Designation and address of the officer passing the decision or order appealed against and the date of the decision or order. Appeal is being filed against the reassessment of Bill of Entry No. 3499463 dated 09.04.2021
4.	Date of communication of the decision or order appealed against to the Appellants. Date of reassessment is 30.03.2023. Interest on IGST was paid on 19.04.2023 and Out-of-charge was given on 13.09.2023.
5.	Address to which notice may be sent to the Appellants. Bhavin Industries (presently known as Coroplast Industries)

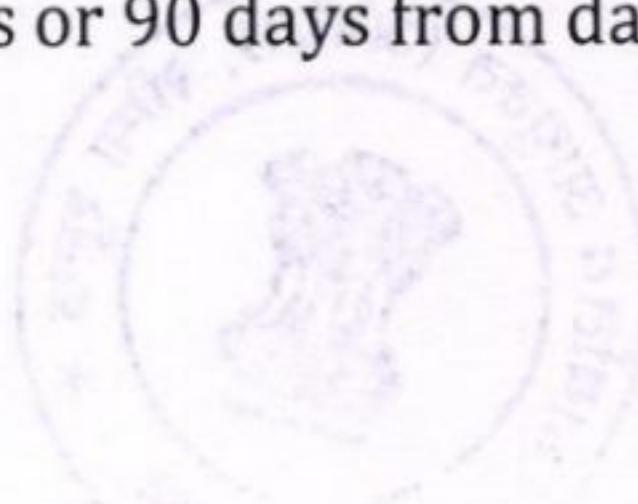
9. The date of re-assessment (against which the present appeal has been filed), date of payment, date of notional Out-of-charge after re-assessment, time taken for filing appeal etc. are mentioned below:



Table-1

Sr. No.	Particulars	Delay in filing appeal beyond 60 days (No. of days)
1	BoE No.	3499463
2	BoE dated	09-04-2021
3	Date of re-assessment	30-03-2023
4	Date of payment of IGST and Interest on account of re-assessment	19-04-2023
5	Date of notional Out-of-Charge as per Circular No. 16/2023-Cus.	13-09-2023
6	Date of filing appeal	07-11-2023
7	No. of days in filing appeal after date of re-assessment (6-3)	222
8	No. of days in filing appeal after date of payment of IGST and Interest (6-4)	202
9	No. of days in filing appeal after date of notional Out-of-Charge (6-5)	55

10. From the above Table, it can be seen that the appeal against re-assessment has been filed after 222 days from the date of re-assessment. Therefore, there is a delay of 162 days, beyond the normal appeal period of 60 days, in filing of appeal. The appellant has not filed any application for condonation of delay in filing of appeal. It appears that the appellant might have calculated the appeal period from the date of notional Out-of-charge after re-assessment. However, I find no provision of law under which the date of notional Out-of-charge can be taken as date of communication of order. Therefore, I am of the considered view that time-limit for filing appeal starts from the date of assessment/re-assessment of Bill of Entry, which has been served and communicated to the appellant through ICEGATE portal, as per the provisions of Section 153(1)(ca) of the Customs Act, 1962. It can also be seen from Table-1 that the appellant had paid IGST and Interest on 19.04.2023 and so, it is evident that the appellant was aware about re-assessment of duty/IGST with interest. Whereas, they have filed appeal on 07.11.2023, i.e. after 202 days from date of payment. Thus, it is on record that the appellant failed to file the present appeal within the statutory period of 60 days or 90 days from date of communication of re-assessment.




11.1 As per the proviso to Section 128(1) of Customs Act, 1962, 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. Thus, the Commissioner (Appeal) has no statutory power to condone the delay beyond the period of 30 days.

11.2 In this regard, I rely upon the Judgment of the Hon'ble Supreme Court in case of ***Singh Enterprises Vs. Commissioner of C.Ex., Jamshedpur*** [2008 (221) E.L.T. 163 (S.C.)], wherein the Hon'ble Apex Court while interpreting the Section 35 of the Central Excise Act, 1944, which is *pari materia* to Section 128 of the Customs Act, 1962, held that the appeal has to be filed within 60 days, but in terms of the proviso, further time of 30 days can be granted by the appellate authority to entertain the appeal. The proviso to sub-section (1) of Section 35 makes the position crystal clear that the appellate authority has no power to allow the appeal to be presented beyond the period of 30 days. The relevant para of the said Judgment is reproduced below (underline supplied):

"8. The Commissioner of Central Excise (Appeals) as also the Tribunal being creatures of Statute are vested with jurisdiction to condone the delay beyond the permissible period provided under the Statute. The period upto which the prayer for condonation can be accepted is statutorily provided. It was submitted that the logic of Section 5 of the Indian Limitation Act, 1963 (in short, the 'Limitation Act') can be availed for condonation of delay. The first proviso to Section 35 makes the position clear that the appeal has to be preferred within three months from the date of communication to him of the decision or order. However, if the Commissioner 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. In other words, this clearly shows that the appeal has to be filed within 60 days but in terms of the proviso further 30 days time can be granted by the appellate authority to entertain the appeal. The proviso to sub-section (1) of Section 35 makes the position crystal clear that the appellate authority has no power to allow the appeal to be presented beyond the period of 30 days. The language used makes the position clear that the legislature intended the appellate authority to entertain the appeal by condoning delay only upto 30 days after the expiry of 60 days which is the normal period for preferring appeal. Therefore, there is complete exclusion of Section 5 of the Limitation Act. The Commissioner and the High Court were therefore justified in holding that there was no power to condone the delay after the expiry of 30 days period."

11.3 The above view was reiterated by the Hon'ble Supreme Court in the case of ***Amchong Tea Estate*** [2010 (257) E.L.T. 3 (S.C.)]. Further, the Hon'ble High Court of Gujarat in case of ***Ramesh Vasantbhai Bhojani*** [2017 (357) E.L.T. 63 (Guj.)] and the Hon'ble Tribunal, Bangalore in the case of ***Shri Abdul Gafoor Vs Commissioner of Customs (Appeals)*** [2024-

TIOL-565-CESTAT-BANG] took a similar view while dealing with Section 128 of the Customs Act, 1962.

11.4 In terms of legal provisions under Section 128 of the Customs Act, 1962 and in light of the judicial pronouncements by Hon'ble Supreme Court, Hon'ble High Court and Hon'ble Tribunal, it is settled proposition of law that the appeals before first appellate authority under the provisions of Customs Act, 1962, are required to be filed within 90 days, including the condonable period of 30 days, as provided in the statute; and the Commissioner of Customs (Appeals) is not empowered to condone any delay beyond 30 days.

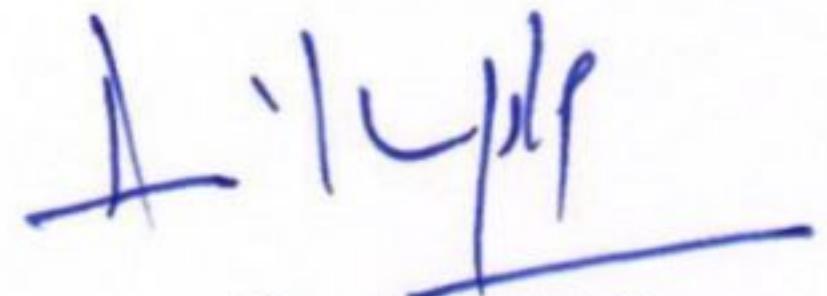
11.5 In light of the above observation, I am of the view that the present appeal, which has been filed after **delay of more than 30** days, beyond the statutory time-limit of 60 days, is time-barred in terms of Section 128(1) of the Customs Act, 1962. Thus, the appeal is liable to be rejected on the grounds of limitation without going into merits.

12. In view of the above facts and discussion, I pass the following order.

Order

I reject the appeal filed by M/s. Bhavin Industries (present known as M/s. Coraplast Industries) as time-barred as per the provisions of Section 128 of the Customs Act, 1962. While passing this order, no opinion or views have been expressed on the merits of the case.




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

By e-mail (As per Section 153(1)(c) of the Customs Act, 1962)

To
M/s. Bhavin Industries
(presently known as M/s. Coraplast Industries)
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(Email: nishith.parikh@coraplast.com info@coraplast.com)

Copy to:

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.
(email: ccohm-guj@nic.in)
2. The Principal Commissioner of Customs, Custom House, Ahmedabad.
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4. Ms. Madhur Azad, Senior Associate, M/s. Lakshmikumaran Sridharan Attorneys, Mumbai. (email: madhur.azad@lakshmisri.com)
5. Guard File.

