सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

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

चौथी मंज़िल **4th Floor,** हडको भवन **HUDCO Bhawan,** ईश्वर भुवन रोड़ **Ishwar Bhuvan Road**
नवरंगपुरा **Navrangpura,** अहमदाबाद **Ahmedabad – 380 009**
दूरभाष क्रमांक **Tel. No. 079-26589281**

DIN - 20260271MN000000DDA0

क	फ़ाइल संख्या FILE NO.	S/49-343/CUS/MUN/2024-25
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)	MUN-CUSTM-000-APP-874-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	26.02.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original no. MCH/169/ARK/DC/REF/2024-25 dated 23.10.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	26.02.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s Arihant Tiles & Marbles Pvt. Ltd, NH 08, Village-Amberi, Udaipur, Rajasthan-313001

कार्यालय आयुक्त (अपील), सीमा शुल्क, अहमदाबाद

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 है.
	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)	बैगेज़ के रूप में आयातित कोई माल.
(a)	any goods exported
(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 दस्तावेज़ों 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** (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस,दण्ड,जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. **200/-**(रूपए दो सौ मात्र)या रु.**1000/-**(रूपए एक हज़ार मात्र), जैसा भी मामला हो, से सम्ब न्धित 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 सम्बंन्ध 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	2nd 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 हज़ार रुपए.	
(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 हज़ार रुपए	
(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 हज़ार 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

Appeal has been filed by M/s Arihant Tiles & Marbles Pvt. Ltd, NH 08, Village-Amberi, Udaipur, Rajasthan-313001, (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original no. MCH/169/ARK/DC/REF/2024-25 dated 23.10.2024 (hereinafter referred to as 'the impugned order') issued by the Deputy Commissioner, Customs House, Mundra (hereinafter referred to as 'the adjudicating authority').

2. Facts of the case, in brief, are that the appellant filed a refund claim of differential Customs Duty amounting to Rs. 21,51,604/ under Section 27 of the Customs Act, 1962 vide their letter received on dated 28.08.2024. The grounds for filing the claim are that the appellant had had filed 43 Bills of Entry between January 2015 to July 2015 for clearance of Rough Marble Blocks falling under Customs Tariff Heading 25151210 imported by them. The proper officer of Customs had rejected the declared value of imported goods under Rule 12 of the Customs (Determination of Value of imported Goods), Rules, 2007 (CVR, 2007) and re- determined the assessable value by enhancing the assessable value of the goods in each Bill of Entry on the basis of the rate of the said item in terms of the value fixed and communicated by SIIB vide letter F. No. S/43- 24/SIIB/INQ(Marble)/2012-13 dated 19.06.2013. The said Bills of Entry have been assessed accordingly at enhanced rate as per above mentioned SIIB letter. Accordingly, the appellant paid Customs Duty vide various Challans in respect of said Bills of Entry.

2.1 Being aggrieved with the assessment, the importer took the matter before the Commissioner (Appeals), Ahmedabad wherein the Commissioner (Appeals), Ahmedabad had upheld the assessment orders of the Department and rejected all the appeals filed in the matter vide Orders-In-Appeal No.MUN-CUSTM-000- APP-390 to 394-15-16 dated 15.03.2016, MUN-CUSTM-000-APP-335 to 350- 15-16 dated 25.02.2016, MUN-CUSTM-000-APP-299 to 306-15-16 dated 28.01.2016, MUN-CUSTM-000-APP-158-15-16 dated 01.09.2015, MUN- CUSTM-000-APP-157-15-16 dated 01.09.2015, MUN-CUSTM-000-APP-

159-15- 16 dated 01.09.2015 and MUN-CUSTM-000 APP-034 to 044-15-16 dated 15.05.2015.

2.2 Being aggrieved with the orders passed by the Commissioner (Appeals). Ahmedabad, the appellant preferred an appeal against the said OIA in CESTAT, Ahmedabad wherein the matter was remanded back to the Adjudicating Authority vide Order No. A/10675-10717/2018 dated 10.04.2018 for deciding the issue on merit afresh after affording the opportunity to the importer to defend them-selves and pass a speaking order.

2.3 In view of above mentioned order of Hon'ble CESTAT the said matter has been fresh adjudicated vide OIO No. MCH/190-232/AC/NSM/Gr.1/24-25 dated 21.06.2024 vide said order the declared transactional value(Unit Price Declared) in the subject 43 Bills of entry and ordered to re-assess the subject 43 bills of entry at the unit price declared by the appellant. Accordingly, said Bills of entry have been re-assessed at the declared value by the appellant the duty difference. In support of their claim, the appellant submitted the following documents-

i. Refund Application in along with form 102 dated 07.08.2024 received on 28.08.2024 in the prescribed format for claim of refund amounting to Rs.21,51,604/-along with refund calculation.

ii. Undertaking that the said refund amount has not recovered or passed on the burden of customs duty on buyer or any other person and credit of the same has not been availed by the claimant so unjust enrichment does not arise in the case. Also declared that the said amount is still outstanding in books as customs duty receivable.

iii. Copy of OIO No. MCH/190-232/AC/NSM/Gr.I/24-25 dated 21.06.2024 issue by Assistant Commissioner, Customs House Mundra.

iv. Copies of relevant Bills of Entry and Challans in respect of Bill of Entry evidencing payment of duty paid for the above Bills of Entry as per assessment.

v. Chartered Accountant Certificate Dated 07.08.2024 issued by D.S Babel & Co. (Membership No. 413968) certified that the burden of Rs.22,38,169/- being duty paid excess erroneously as per details, has neither recovered nor passed on to the buyer/any other person in any manner. The claimant has not taken credit of the said customs duty. It is also certify that refund is shown as receivables amount under the head of Customs Duty Receivables hence question of unjust enrichment does not arise in the case.

2.4 Consequently, the adjudicating authority passed the following order with regard to Appellant:

(1) He sanctioned refund of Rs. 19,77,040/- and rejected the remaining amount to Rs.1,74,564/- to the Appellant under Section 27 of the Customs Act, 1962, subject to no adverse remarks from the PAO/E-PAO authority of Central Government of India. He further ordered that if, any adverse remark is being noticed by the PAO/E-PAO authority in future, the claimant are required to deposit said sanctioned amount of Rs. 19,77,040/- with appropriate interest in the Government Account.

SUBMISSIONS OF THE APPELLANT:

3. Being aggrieved with the impugned order, the Appellant has filed the present appeal against the order passed by the Deputy Commissioner, Customs House, Mundra.

3.1 The appellant contends that the original order rejecting a refund claim of ₹1,74,564 is a non-speaking and mechanical order that must be set aside. It is argued that the Deputy Commissioner failed to record specific findings or cite any legal provisions that prohibit refunding customs duty paid via DGFT scrips in cash. The appellant asserts that under the right of appeal, they are entitled to a reasoned decision, and the failure to provide one results in a denial of justice.

3.2 A central legal argument is that Departmental Circulars cannot override statutory Notifications. While Circular No. 6/2008-Cus. suggests re-crediting the relevant scrip instead of paying cash, the appellant points out that Notification No. 102/2007-Cus. contains no such restriction. Citing various court precedents, the appellant argues that administrative directions cannot whittle down or impose harsher conditions than those postulated by the original statute or notification.

3.3 The appellant further claims the refund order is faulty for failing to allow even the re-credit of the duty paid by using scrips, despite such a provision existing in the department's own circular. It is submitted that if the amount cannot be refunded in cash, it must be re-credited so the appellant can utilize it for future duty payments. Furthermore, if the scrips are no longer valid or in existence, the department should be compelled to make the refund via RTGS/cash.

3.4 Finally, the appellant seeks interest on a separate sanctioned refund amount of ₹19,77,040 (out of a total deposit of ₹21,51,604) due to an inordinate delay in the adjudication process. The appellant argues that the extra duty paid during the clearance of "Rough Marble Blocks" was not "duty" in the legal sense but a pre-deposit collected without authority of law. Because the department took over six years to pass a favorable order following a CESTAT remand, the appellant demands compensation in the form of interest, including interest on interest for the period the funds were wrongfully withheld.

PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 27.01.2026 following the principles of natural justice wherein Shri Nilesh Asawa, CA, appeared for the hearing and re-iterated the submissions made at the time of filing the appeal.

DISCUSSION AND FINDINGS:

5. I have carefully gone through the case records, impugned order passed by the Deputy Commissioner, Customs House, Mundra and the defense put forth by the Appellant in their appeal.

5.1 Before going into the merits of the case, I find that the appeal is not filed within the stipulated period of 6o days under Section 128 of the Customs Act, 1962. This section provides for a period of sixty days for filing an appeal, with a further grace period of thirty days if sufficient cause is shown for the delay. In this case, the appeal was filed with a delay of 16 days beyond the initial sixty-day period, but within the extended thirty-day period. The Appellant has attributed the delay to some extra ordinary work pressure on the concerned staff. While parties are expected to exercise due diligence, minor delays attributable to administrative oversights, especially when the appellant acts promptly upon discovering the issue, are generally condoned by appellate authorities to ensure that justice is not denied on mere technicalities. Considering the explanation provided, which indicates no deliberate inaction or gross negligence, I find that the Appellant has shown "sufficient cause" for the delay. Therefore, I condone the delay in the interest of natural justice and admit the appeal for disposal.

5.2 Now coming to the facts of ten caser, it is observed that the adjudicating authority rejected a portion of the refund claim amounting to Rs. 1,74,564/- solely on the premise that since the duty was originally paid by debiting Focus Product Scheme (FPS) scrips, it cannot be refunded in cash. The Adjudicating Authority appears to have relied on Circular No. 6/2008-Cus dated 28.04.2008. I find this reasoning to be fundamentally flawed for several reasons. The Special Additional Duty (SAD) was levied under Section 3(5) of the Customs Tariff Act, 1975. The refund mechanism is governed by Notification No. 102/2007-Customs. This notification contains no restriction or prohibition against cash refunds where the original payment was made via scrips. It is a settled principle of law that an executive circular cannot override or whittle down the scope of a statutory notification. The Hon'ble Delhi High Court in **Allen Diesels India Pvt. Ltd. v. Union of India [2016 (334) E.L.T. 624 (Del.)]** addressed this exact issue, holding that the SAD refund is a "substitution of the tax" already paid. The Court explicitly struck down the restrictive interpretation of the Department, stating that if the law allows duty payment via scrips, the refund of such duty must be treated at par with cash payments.

5.3 Scrips issued under various Foreign Trade Policy schemes (like FPS or MEIS) are as good as cash for the purpose of paying duty. They represent a vested right of the exporter. When a scrip is debited, the value of the scrip is exhausted. If the underlying assessment is subsequently held illegal (as it was held by the CESTAT), the debiting of the scrip was wrongful. Denying a cash refund when the scrip has likely expired due to the Department's own six-year delay in adjudication is tantamount to double jeopardy for the importer.

5.4 The CESTAT in **CCE v. Artex Textile Pvt. Ltd. [2020 (374) E.L.T. 122** (T)] observed that where scrips are no longer valid for re-credit, the only equitable remedy is a refund via cash/RTGS. The Adjudicating Authority failed to consider that the Appellant cannot be forced to accept a re-credit into a scrip that might have lost its validity during the period the Department sat on the case.

5.5 The Adjudicating Authority should have verified whether the scrips used in 2015 were still operational. If the scrips have expired, a "re-credit" is a mathematical impossibility. By blindly following an outdated circular, the

Adjudicating Authority has passed an order that is not only legally incorrect but practically un-implementable.

5.6 The most critical failure of the impugned order is the summary denial of interest on the refund amount. The Adjudicating Authority has completely ignored the fact that the Appellant's funds remained with the Government for nearly a decade due to an illegal assessment and subsequent administrative delay. I find the denial of interest unsustainable based on the following detailed legal analysis.

5.6.1 It is a well-settled legal principle that "Interest" is essentially compensatory in nature. When a person is deprived of the use of their money due to a wrongful act of another, the person is entitled to be compensated. The Adjudicating Authority failed to recognize that the State cannot enjoy "unjust enrichment" at the cost of the taxpayer.

5.6.2 The Hon'ble CESTAT remanded the matter for de-novo adjudication in April 2018. However, the Adjudicating Authority took until June 2024—over six years—to pass a fresh order accepting the declared value. This delay is entirely attributable to the Department. **In Sandvik Asia Ltd. v. Commissioner of Income Tax 2006 (196) E.L.T. 257 (S.C.),** the Apex Court held that if the revenue fails to refund money within a reasonable time, it must pay interest to compensate for the delay. The Department's failure to act on a judicial mandate for six years is an extraordinary circumstance that mandates the payment of interest from the expiry of a reasonable period following the CESTAT order.

5.6.3 While the Adjudicating Authority might argue that Section 27A only triggers interest after three months of a refund application, the judiciary has distinguished between "statutory interest" and "interest on delayed restitution." Since the original payment was a "pre-deposit" or "payment under protest" to secure clearance, the moment the assessment was set aside by the CESTAT in 2018, the amount became refundable. The formal application filed in 2024 was merely a procedural follow-up to the de-novo order. Relying solely on the date of the 2024 application to deny interest for the preceding six years is an abuse of process.

5.6.4 In cases of pre-deposits, the law is clear under Section 129EE (of the Customs Act) and Section 35FF (of the Central Excise Act) that interest is payable from the date of deposit until the date of refund following an appellate success. Even if the payment here was termed "duty," its character changed to a "deposit" once the underlying valuation was challenged and eventually found incorrect. Therefore, the principles governing interest on pre-deposits apply here with full force.

5.7 A significant procedural infirmity in the impugned order is its "non-speaking" character regarding the rejection of interest. The adjudicating authority failed to cite any case law or provide any statutory reasoning in the OIO to justify the denial of interest. This omission constitutes a grave violation of the principles of natural justice and judicial discipline. The Appellant, in their refund application and submissions, specifically relied on the landmark judgment of Sandvik Asia Ltd. v. Commissioner of Income Tax 2006 (196) E.L.T. 257 (S.C.). The Adjudicating Authority completely ignored this citation. The Sandvik judgment clearly establishes that the Revenue must compensate the assessee for withholding amounts without authority of law, particularly when there is an inordinate delay. By ignoring a binding precedent from the Apex Court, the Adjudicating Authority has committed a jurisdictional error. It is a well-settled principle of judicial discipline that lower authorities are bound by the rulings of higher courts and must distinguish them on facts if they intend not to follow them; they cannot simply ignore them.

5.8 The impugned order sanctioned part of the refund but rejected the interest and the scrip-paid portion without a line of reasoning. This "pick and choose" approach, without explaining the legal basis for such bifurcation, demonstrates a lack of application of mind. An order that fails to deal with the primary contentions of the party is liable to be set aside on this ground alone. The failure to provide reasons deprives the Appellant of their right to a fair hearing and an effective appeal.

5.9 The impugned order suffers from several foundational legal and procedural defects that necessitate a remand rather than a mere modification. First and foremost, the Adjudicating Authority has committed a significant legal error by misapplying Circular No. 6/2008-Cus to deny a cash refund for duty paid via Focus Product Scheme (FPS) scrips. By failing to appreciate the ratio of the Hon'ble Delhi High Court in Allen Diesels India Pvt. Ltd., which explicitly held such restrictive circulars to be ultra vires the parent statutory notifications, the authority has passed an order that is in direct conflict with established judicial hierarchy. Secondly, the order is conspicuously silent on the factual and legal necessity of interest. The Adjudicating Authority failed to recognize that the funds were withheld for over six years due to an administrative delay in concluding the de-novo proceedings—a delay that is entirely attributable to the Revenue. By not addressing the Appellant's reliance on the Sandvik Asia and Tata Chemicals rulings, which establish the State's obligation to pay interest on wrongfully withheld "money collected without authority of law," the authority has passed a "non-speaking" order that violates the principles of natural justice as articulated in Kranti Associates. Furthermore, the authority failed to perform the necessary factual verification regarding the current validity of the 2015 scrips; if these scrips have expired, the offer of "re-credit" is a legal nullity, making a cash refund the only constitutional remedy under Article 265. Consequently, as the impugned order fails to address the specific judicial precedents cited, lacks reasoned findings on the 6-year delay, and relies on an inapplicable executive circular, it must be remanded for a fresh, comprehensive, and speaking adjudication that aligns with the principles of restitution and judicial discipline.

6. In view of the above detailed discussion, the impugned Order-in-Original No. MCH/169/ARK/DC/REF/2024-25 dated 23.10.2024 is set aside. The matter is remanded to the Adjudicating Authority with the following directions:

a. Re-examine the eligibility of the refund of Rs. 1,74,564/- in cash in light of the Allen Diesels India Pvt. Ltd. judgment discussed above and the current status/validity of the scrips.
b. Compute and grant interest on the total refund amount of Rs. 21,51,604/- for the period of delay.
c. Pass a fresh, speaking order after providing the Appellant a fair opportunity for a personal hearing and considering their submissions in the appeal memorandum.

7. The appeal is allowed by way of remand.

(AMIT GUPTA)
Commissioner (Appeals),
Customs, Ahmedabad

F. No. S/49-343/CUS/MUN/2024-25

Date:26.02.2026

By Speed post /E-Mail

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M/s Arihant Tiles & Marbles Pvt. Ltd,
NH 08, Village-Amberi, Udaipur,
Rajasthan-313001

Copy to:
1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.
2. The Principal Commissioner of Customs, Custom House, Mundra.
3. The Deputy Commissioner of Customs, Custom House, Mundra.
4. Guard File.