सीमाशुल्क (अपील) आयुक्तका कार्यालय, अहमदाबाद
OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD
चौथी मंज़िल **4th Floor,** हडको बिल्डिंग **HUDCO Building,** ईश्वर भुवन रोड़ **Ishwar Bhuvan Road,**
नवरंगपुरा **Navrangpura,** अहमदाबाद **Ahmedabad – 380 009.**
दूरभाष क्रमांक **Tel. No. 079-26589281**

DIN-20261071MN0000747956

क	फ़ाइल संख्या FILE NO.	S/49-270/CUS/JMN/2022-23
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) :	JMN-CUSTM-000-APP-91-2026-27
ग	पारितकर्ता PASSED BY	Shri Vishwajeet Singh Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	22.10.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	12/Additional Commissioner/2022-23 dated 27.12.2022
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	22.10.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	1. M/s Ford India Private Limited, Revenue Survey No. 6, Village North Kotpura, Taluka; Snanad, Ahmedabad-382170

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 imported
(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

1. Brief facts of the case

1. M/s Ford India Private Limited, Revenue Survey No. 6, Village North Kotpura, Taluka; Sanand, Ahmedabad 382170 (herein after referred to as the "Appellant for the sake of brevity) has filed the present appeal against Order-In-Original 12/Additional Commissioner/2022-23 dated 27.12.2022 (herein after referred to as the "impugned order") issued by the Additional Commissioner, Customs (Preventive), Jamnagar (herein after referred to as the "Adjudicating Authority).

1.2 The Appellant filed various Bills of Entry through their Customs Broker M/s. Transmarine Corporation, before Customs House, Gujarat Pipavav Port Limited, Pipavav, wherein apart from other things they sought clearance for home clearance of following goods by classifying the same under Tariff Heading No. 3919 90 90 of the first schedule to the Customs Tariff Act, 1975:

Sl. No.	Description of goods imported
01	Transfer Rear Bumper Extend Color Strip Left Hand
02	Transfer Rear Bumper Extend Color Strip.
03	Transfer Read Door Color Strip.
04	Transfer Door Color Strip.

1.3 The Appellant, while seeking the clearance of above goods for home consumption by classifying the same under Customs Tariff Heading No. 3919 90 90, claimed the benefit of concessional rate of basic customs duty as envisaged at Sl. No. 9 of Notification No. 57/2017-Custom dated 30-06-2017, as amended vide Notification No.22/2018-Custom dated 02-02-2018. Thus, they have paid basic customs duty @ 10% ad-valorem instead of Tariff Rate of 15% ad-valorem.

1.4 Notification No. 57/2017-Customs dated 30-06-2017, prescribe Basic Customs Duty rates on certain electronic goods, as amended vide Notification No. 22/2018-Customs dated 02.02.2018, and further amend Notification No. 57/2017-Custom dated 30.06.2017 so as to provide effective rates of Basic Customs Duty on specified parts of cellular mobile phones and other electronic goods.

1.5. Notification No. 57/2017-Custom dated 30-06-2017, as amended vide Notification No 22/2018-Custom dated 02-02-2018 is applicable only to the manufacturers of mobile phones and other electronic goods and since the said Appellant is not related either to mobile phone or other electronic items therefore the benefit of concessional rate of duty is not admissible to them. Therefore, the

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Deputy Commissioner, Customs House, Gujarat Pipavav Port Limited, Pipavav vide his letter F. No. VIII/22-01/Audit/PCA Recovery/2017-2018 dated 09-09-2019 asked the said Appellant to pay the differential duty of customs along with interest.

1.6. The Appellant vide their letter dated 17-09-2019 replied that there is no mentioned of "mobile phones" and "other electronic goods in the notifications and the benefit of concessional rate of duty is available to all goods classifiable under Customs Tariff Heading No. 3919 90 90 other than the parts or sub-parts or accessories of cellular mobile phones, viz. (i) Heat Dissipation Sticker Battery Cover, (ii) Sticker-Battery Slot (iii) Protective Film for main Lens, (iv) Mylar for LCD FPC and Film-Front Flash. Notification No. 57/2017-Custom dated 30-06-2017, as amended vide Notification No. 22/2018-Custom dated 02-02-2018, was predominantly issued to extend the benefit of concessional rate of basic customs duty to the manufacturers of the cellular mobile phones.

1.7 Notification No. 57/2017-Custom dated 30-06-2017, as amended vide Notification No. 22/2018-Custom dated 02-02-2018, was predominantly issued to extend the benefit of concessional rate of basic customs duty to the manufacturers of the cellular mobile phones. The said notification was intended for manufacturers of the cellular mobile phones. Notification No. 57/2017-Customs dated 30.06.2017, intends to prescribe Basic Customs Duty rates on certain electronic goods, was amended vide Notification No. 22/2018-Customs dated 02-02-2018, further amending Notification No. 57/2017-Custom dated 30-06-2017 so as to prescribe effective rates of Basic Customs Duty on specified parts of cellular mobile phones and other electronic goods. The benefit of concessional rate of duty as envisaged under Sl. No. 9 of Notification No. 57/2017-Custom dated 30.06.2017, as amended vide Notification No. 22/2018-Custom dated 02.02.2018 is not admissible to the said Appellant, not being related to any activity of mobile phone manufacturing.

1.8 The Appellant has claimed exemption from the payment of basic customs duty and social welfare surcharge under Notification No. 24/2015-Cus dated 08.04.2015, as amended. The said Notification No. 24/2015-Cus dated 08-04-2015, as amended, which have been issued under provisions of Section 25(1) of Customs Act, 1962 only provides for exemption from payment of customs duty leviable under first schedule to the Customs Tariff Act, 1975 and additional duty leviable thereon under Section 3 of the said Customs Tariff Act.

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1.9 The Social Welfare Surcharge is levied as a duty of customs under Section 110 of the Finance Act, 2018 with effect from 29-03-2018. However, Notification No. 24/2015-Customs dated 08-04-2015, as amended vide Notification No. 38/2015-Customs dated 15-06-2015, Notification No. 26/2017-Customs dated 29-06-2017 and Notification No. 63/2018-Customs dated 18-09-2018 has not been issued under Section 110 of the Customs Act, 1962. Thus, in view of the judgment of the Hon'ble Supreme Court of India in Civil Appeal No. 9327/2019 in the case of M/s. Unicorn Industries V/s. Union of India the same is not exempted and became recoverable from the Appellant.

1.10. In view of above the differential duty of customs amounting to Rs. 11,01,898/ and Rs. 29,15,812/- was required to be recovered from the said Appellant under Section 28(1) of the Customs Act, 1962 along with interest under Section 28AA ibid. The above observations culminated into issuance of show cause notice dated 12-02-2020 from F. No. VIII/10-27/ADC/O&A/2019-2020 to the said Appellant wherein it was proposed as to why:

(i) the of customs amounting to differential duty Rs. 11,01,898/- (Rupees Eleven Lakhs, One Thousand, Eight Hundred and Ninety Eight only) as calculated in Annexure C-1 of the show cause notice should not be recovered from them under Section 28(1) of Customs Act, 1962;
(ii) the of customs amounting to differential duty Rs.29,15,912/- (Rupees Twenty Nine Lakhs, Fifteen Thousand, Nine Hundred and Twelve Only) as calculated in Annexure C-2 of this show cause notice should not be recovered from them under Section 28(1) of Customs Act, 1962;
(iii) the interest, at applicable rates, should not be charged and recovered from them, on the amount at (i) and (ii) above, under Section 28AA of the Customs Act, 1962

1.11. The aforesaid Show Cause Notice was adjudicated vide Order-in-Original No. 03/Additional Commissioner/2020-21 dated 23.07.2020 passed by the then Additional Commissioner, Customs (Preventive) Jamnagar wherein the demand of differential duty of Customs amounting to Rs. 11,01,898/- was confirmed and amount of Rs. 29,15,912/- was set aside. The order also confirmed the demand of interest on the confirmed demand of Customs duty.

1.12 Being aggrieved by the OIO the Department preferred appeal before the Commissioner(Appeals), Ahmedabad. Simultaneously, being aggrieved with the impugned Order-in-Original read with the corrigendum issued by the then adjudicating authority, the Appellant also preferred an appeal before the Commissioner (Appeals), Customs, Ahmedabad. The Commissioner (Appeals),

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Customs, Ahmedabad vide Order-in-Appeal No. JMN-CUSTM-000-APP-46 to 47 - 21-22 dated 17.12.2021 has remitted the matters to the proper officer. The relevant portion of the Order-in-Appeal is reproduced as follows:

"8. In view of the above, I remit the matters pertaining to the Appeal No. 04/CA-2/20-21 and 34/20-21 to the proper officer, who shall ascertain the facts, examine the documents, submissions made by the Appellant No. 1 and Appellant 2 and pass speaking order afresh following principles of natural justice and adhering to the legal provisions. While passing this order, no opinion or views have been expressed on the merits of the dispute or the submissions by the appellants in this regard, which shall be independently examined by the proper officer."

1.13 The case was again adjudicated vide the impugned order wherein the demand of demand of differential duty of customs amounting to Rs.36,28,502/- was confirmed under Section 28(1) of the Customs Act, 1962 and demand of differential duty of customs amounting to Rs.3,89,307 was set aside. The order also confirmed the demand of interest under Section 28AA of the Customs Act, 1962 on the confirmed demand of Customs duty.

1.14 Being aggrieved by the OIO, the Appellant preferred the present appeal.

2. Ground of Appeal submitted by the Appellant

2.1 The Appellant submitted that Notification No. 57/2017 has been issued by the Central Government under Section 25(1) of the Customs Act, 1962. Vide the said Notification, goods of such description under Column 3 of the Notification, falling under such the corresponding Chapter, Heading, Sub-Heading or Tariff Item are exempt from so much of customs duty leviable under the First Schedule. The Appellant further submitted that they had imported the subject goods and classified them under Customs Tariff Item ("CTI") 39199090. The relevant extract of Heading 3919 is given below:

Tariff Item	Description of Goods	Rate of Duty
3919	Self-adhesive plates, sheets, film, foil, tape, strip and other flat shapes, of plastics, whether or not in rolls	
3919 10 00	- In rolls of width not exceeding 20 cm	10%
3919 90	- Other :	
3919 90 10	--- Plastic stickers, whether or not printed, embossed, and or impregnated.	10%
3919 90 20	--- Cellulose adhesive tape	10%
3919 90 90	--- Other	15%

2.2 The Appellant submitted that the classification adopted by them in respect of the subject goods is not in dispute. It is pertinent to note that Notification No. 57/2017 was subsequently amended vide Notification No. 22/2018-Cus. dated

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02.02.2018 and Sl. No. 9 was inserted. Vide Sl. No. 9 of Notification No. 57/2017, concessional rate of BCD at 10% was granted in respect of goods classified under CTI 3919 90 90. The relevant portion of the Notification is extracted below:

S.No.	Chapter or Heading or Sub-heading or tariff item	Description of goods	Standard rate	Condition No.
9.	3919 90 90	***All goods*** other than the following parts or sub-parts or accessories of cellular mobile phones, namely:- (i) Heat Dissipation Sticker Battery Cover (ii) Sticker-Battery Slot (iii) Protective Film for main Lens (iv) Mylar for LCD FPC (v) Film-Front Flash	10%	-

2.3 The Appellant further submitted that since the subject goods were classified under CTI 39199090, the Appellant claimed benefit of the Notification and discharged duty at 10% as stated in the Notification. The Appellant submitted that from a reading of the relevant entry, it is evident that the benefit of concessional rate of BCD is available to "all goods" falling under Tariff Entry 39199090. The entry excluded certain parts, sub-parts or accessories of cellular mobile phones. Since the subject goods were not amongst the goods which were excluded by Sl.No. 9, the Appellant claimed the benefit under the Notification. However, the Impugned order has sought to deny benefit on the ground that the intention of the Notification appears to be to grant benefit only to parts imported for the manufacture of mobile phones and no other goods.

2.4. The Appellant further submitted that it is a settled principle that benefit of any Notification has to be extended by giving a plain meaning to the description without resorting to intent of such notifications/circulars etc. This position of law has been time and again reiterated by the Hon'ble Apex Court in a series of decisions. The Apex Court in Hemraj Gordhandas v. HH. Dave, ACCCE, Surat & ors., 1978 (2) E.L.T. (J 350) held that when the tax payer otherwise qualifies for an exemption within the plain meaning of the terms of the notification, the benefit of the exemption cannot be denied by placing reliance on any apparent intent of the issuing authority. The relevant portion of the decision is extracted below:

"It is well established that in a taxing statute there is no room for any intendment but regard must be had to the clear meaning of the words. The entire matter is governed wholly by the language of the notification. If the taxpayer is within the plain terms of the exemption it cannot be denied its benefit by calling in aid any supposed intention of the exempting authority. If such intention can be gathered from the construction of the words of the notification or by necessary implication therefrom, the matter is different but that is not the case here. In this connection we may refer

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to the observations of Lord Watson in Salomon v. Salomon a Co., 1897AC 22 atp. 38:

"Intention of the legislature is a common but very slippery phrase, which, popularly understood may signify anything from intention embodied in positive enactment to speculative opinion as to what the legislature probably would have meant although there has been an omission to enact it. In a Court of Law or Equity, what the Legislature intended to be done or not to be done can only be legitimately ascertained from that which it has chosen to enact, either in express words or by reasonable and necessary implication".

2.5 The Appellant further placed reliance on decision of the Hon'ble Apex Court in the case of Baidyanath Ayurved Bhawan (P) Ltd. v Excise Commissioner, U.P., 1999 (110) ELT 363 (S.C.), wherein it was observed that there is no room for any observations regarding the intention of the legislature in a taxing statute and that one must look at what is exactly stated therein. Further, the Hon'ble Supreme Court in Sales Tax Commissioner v. Modi Sugar Mills, AIR 1961 SC 1047, as follows:

"[I]n interpreting a taxing statute, equitable considerations are entirely out of place. Nor can taxing statute be interpreted on any presumptions or assumptions. The court must look squarely at the words of the statute and interpret them. It must interpret a taxing statute in the light of what is clearly expressed; it cannot imply anything which is not expressed; it cannot import provisions in the statute so as to supply any assumed deficiency."

2.6. The Appellant also placed reliance on the decision of the Hon'ble Supreme Court in ALD Automotive Private Limited v. Commercial Tax Officer, 2018 (364) ELT 3 (SC.), wherein the Hon'ble Supreme Court has held that the taxing statute has to be strictly construed and nothing is to be read in or implied. Further, a Larger Bench of the Hon'ble Supreme Court in the case of Sri Sathya Sai Institute of Higher Medical Sciences v. Union of India, 2003 (158) ELT 675 (SC), partly over-ruling the case of Mediwell Hospital & Health Care Pvt. Ltd. 1997 (89) ELT 425 (SC) has held no courts can impose additional conditions which are not provided for in the exemption notification. It was observed specifically that grant of an exemption is the prerogative of the legislature and hence it is for the legislature to impose appropriate conditions for availing the benefit of an exemption notification and no other authorities. Reliance is also placed on the following decisions wherein it has been held that taxing statute has to be given strict interpretation.

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a) Saraf trading corporation v. State of Kerala, (2011) 2 SCC 344,

b) SAIL v. State of Orissa, (2000) 3 SCC 200,

c) State of Chhattisgarh v. VTP Construction, (2008) 2 SCC 578,

d) J.K. Steels Limited v. Union of India, 1978 (3) ELT J355 (SC.),

2.7 The Appellant also relied upon the decision of the Hon'ble Supreme Court in the case of CC v. Dilip Kumar, [2018 (361) E.L.T. 577 (SC)], wherein the Hon'ble Supreme Court observed as under:-

"We are not suggesting that literal rule de hors the strict interpretation nor one should ignore to ascertain the interplay between 'strict interpretation' and 'literal interpretation'. We may reiterate at the cost of repetition that strict interpretation of a statute certainly involves literal or plain meaning test. The other tools of interpretation, namely contextual or purposive interpretation cannot be applied nor any resort be made to look to other supporting material, especially in taxation statutes. Indeed, it is well settled that in a taxation statute, there is no room for any intendment; that regard must be had to the clear meaning of the words and that the matter should be governed wholly by the language of the notification. Equity has no place in interpretation of a tax statute. Strictly one has to look to the language used; there is no room for searching intendment nor drawing any presumption.

2.8 The Appellant submitted that based on the above discussion the plain reading of the exemption entry, the impugned goods are covered; there is no room for further intendment or contextual reading that is required to interpret the entry. On a strict interpretation, the impugned goods are covered by the exemption entry. Further, submitted that Notification No. 57/2017 does not qualify the exemption under the Notification only to parts intended for use of manufacture of cellular mobile phone. The same is evident not only from the terms used in Sl. No. 9, but also from the preamble of the Notification, which provides exemption to all goods which fall under the specific description and Chapter/ Heading/ Sub-Heading/ Tariff Item specified in the Notification. The preamble of the Notification is extracted below for reference: "In exercise of the powers conferred by sub-section (1) of section 25 of the Customs Act, 1962 (52 of 1962), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the goods of the description as specified in column (3) of the Table below, as the case may be, and falling within the Chapter, heading, sub-heading or tariff item of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) as are specified in the corresponding entry in column (2) of the said Table, when imported into India, from so much of the duty

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of customs leviable thereon under the said First Schedule as is in excess of the amount calculated at the standard rate as specified in the corresponding entry in column (4) of the said Table subject to any of the conditions, as specified in the Annexure to this notification, the condition number of which is mentioned in the corresponding entry in column (5) of the said Table."

2.9. The Appellant also submitted that while the Notification specifies that the exemption is subject to any condition which is specified under the Notification. It is pertinent to note that a perusal of Sl. No. 9 of the Notification clearly shows that no condition has been prescribed under the Notification. Therefore, the imposition of any condition which is not clearly provided for in the Notification would tantamount to imposing conditions which are otherwise not specified. As stated above, the imposition of any condition not explicitly provided has been rejected time and again by various forums. Hence, it is submitted that the condition sought to be imposed in the Impugned Order that the subject goods are not intended for use of manufacture of mobile phones and hence are ineligible for benefit under Notification No. 57/2017 is untenable and is liable to be set aside. Therefore, when the subject goods squarely qualify the description under Sl. No. 9 of Notification No. 57/2017, the benefit under the entry which is in respect of "all goods" must be extended to the subject goods imported by the Appellant. Reliance is also placed on the following judgments:

(i) Standard Pencils (P) Ltd. vs. CCE, Madras - 2002 (145) E.L.T. 278 (S.C.)
(ii) Commissioner of Sales Tax vs. Agarwal & Co. 1983 (12) (E.L.T. 116 (Bom.)
(iii) Indian Tool Manufacturers vs. Collector of Central Excise, Poona - 1984 (18) E.L.T. 527 (Tri.-Del) (affirmed by the Hon'ble Supreme Court in 1994 (74) E.L.T. 12 (S.C.)
(iv) Swaraj Mazda Ltd. vs. CCE, Chandigarh - 2010 (257) E.L.T. 264 (Tri. -Del.)
(v) CC, Bombay vs. Hargovindas & Co. - 1987 (29) E.L.T. 975 (Tribunal)

Impugned Order has failed to consider TRU Letter dated 01.02.2018

2.10. The Appellant also submitted that it is also pertinent to note that the prior to 01.02.2018, the tariff rate in respect of all goods under CTI 3919 90 90 was 10%. The rate of duty was increased to 15%. In this regard, Letter D.O.F. No. 334/4/2018-TRU dated 01.02.2018 issued by the Central Board of Indirect Taxes and Customs ("Board") is relevant. Vide the said letter, the Board has clarified that the tariff rate of specific parts of cellular mobile phones is being increased to 15%. The relevant portion of the letter is extracted below:

"BCD on specified parts or sub-parts or accessories of cellular mobile phones, namely, Heat Dissipation Sticker Battery Cover, Sticker-Battery Slot, Protective Film for main Lens, Mylar for LCD FPC, Film-Front Flash, falling under tariff item 3919 90 90, is being increased from 10% to 15% by increasing the tariff rate (Clause

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101(a) of the Finance Bill, 2018 refers]. However, BCD on goods, other than these specified parts or sub-parts or accessories of cellular mobile phones, falling under tariff item 3919 90 90 is being retained at 10%. Notification No. 57/2017-Customs, dated 30th June 2017, as amended by notification No. 22/2018-Customs, dated 2nd February, 2018 (new S. No. 9 refers)"

2.11 The Appellant further submitted that a perusal of the above letter makes it evident that the intention of the Board was to increase tariff rate to 15% only in respect of certain specific items. Though the said letter was brought to the attention of the Ld. Adjudicating Authority, the same has not been considered while passing the Impugned Order. Further, it is submitted that on a plain reading of the terms used in the Notification as well as Letter dated 01.02.2018 issued by the Board, it is evident that the intention of the Board was to provide exemption to all goods other than those specifically provided for. It is also pertinent to note that even if the principle of contemporaneous exposition were to be applied, the relevant Circular to understand the position would be the letter dated 01.02.2018 since the issuance of the said letter coincides with the amendments which were introduced in the rate of duty in respect of goods covered under Tariff item 3919 90 90. Therefore, without prejudice to the above submissions that the literal meaning of the Notification ought to be applied, it is submitted that even If the intent has to be seen, the appropriate letter to refer will be the letter dated 01.02.2018 issued by the Department.

2.12 The Appellant submitted that the Impugned Order liable to be set aside as unsustainable and consequently, the demand for duty merits to be dropped and interest under Section 28AAA of the Customs Act, 1962 is not leviable. The Appellant further submitted that the impugned Order has demanded interest under Section 28AA of the Customs Act. Section 28AA of the Customs Act, 1962 is extracted below:

"Section 28AA. Interest on delayed payment of duty (1) Notwithstanding anything contained in any judgment, decree, order or direction of any court, Appellate Tribunal or any authority or in any other provisions of this Act or the rules made thereunder, the person, who is liable to pay duty in accordance with the provisions of section 28, shall, in addition to such duty, be liable to pay interest, if any, at the rate fixed under sub-section (2), whether such payment is made voluntarily or after determination of the duty under that section."

2.13. The Appellant further submitted that the demand of interest is not sustainable in present case as the demand for differential duty is not sustainable

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for the reasons demonstrated in the foregoing paragraphs. The subject goods have been correctly classified and are eligible for exemption. It is a cardinal principle of law that when the principal demand is not justified, there is no liability to pay ancillary demands. Therefore, the Appellant submitted that they are not liable to pay interest as demanded in the impugned Order. The Hon'ble Supreme Court of India in Prathibha Processors vs. Union of India (1996 (88) E.L.T. 12 (S.C.)], has held that when the principal amount (duty) is not payable due to exemption, there is no occasion or basis to levy any interest, either. Relevant portions from the judgement is extracted below for a ready reference:

"The "interest" payable under Section 61(2) of the Act is a mere "accessory of the principal and if the principal is not recoverable/payable, so is the interest on It. This is a basic principle based on common sense and also flowing from the language of Section 61(2) of the Act. The principal amount herein is the amount of duty payable on clearance of goods. When such principal amount is nil because of the exemption, a fortiori, interest payable is also nil. In other words, we are clear in our mind that the interest is necessarily linked to the duty payable.

In view of the above, the Appellant submitted that the demand of interest under the impugned Order is not sustainable and deserves to be set aside.

PRAYER

2.14 In view of the foregoing, the Appellant prayed for the following:

(a)Set aside the Impugned Order and consequently set aside the demand for differential duty to the tune of INR 36,28,502/- along with interest under Section 28AA

(b)grant a personal hearing, and

(c)pass such other order or orders as may be deemed fit and proper in the facts and circumstances of the case.

.....

3. PERSONAL HEARING:

Opportunity of personal hearing was granted to the Appellant. Ms Surbhi Chandani, Advocate, appeared for personal hearing on 21.05.2026 wherein she re-iterated written submission filed during the appeal. She requested to set aside the OIO with consequential relief.

4. DISCUSSION AND FINDINGS:

4.1 The date of the impugned order is 27.12.2022 and the date of receipt of OIO is 02.01.2023. The Appellant has filed the appeal on 15.09.2023 thus, based on

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the above dates, I find that the Appellant had the appeal well within the time period of 60 days prescribed under the provisions of Section 128 of the Customs Act, 1962.

4.2. I find that the Appellant has already paid the mandatory pre-deposit of Rs. 2,72,138/- being 7.5% of the disputed duty vide Challan No. Cus/325/2020-21 dated 24.12.2020 demanded as prescribed under Section 129E of the Customs Act, 1962. Therefore, the condition of pre-deposited as prescribed under Section 129E of the Customs Act, 1962 stands fulfilled

4.3 The Customs Office, Pipavav was requested for submission of comments of the appeal filed by the Appellant vide letter dated 28.02.2023 but no comments have been received by this office till date therefore, I am taking up the issue for decision based on the facts of the case and documentary evidence available on record.

4.4 I have carefully gone through the case records, show cause notice and corresponding order passed by the adjudicating authority and the defense put forth by the Appellants in their appeal. The fundamental issue to be determined is whether the various imported

i. Whether the Appellant (an automobile manufacturer) is eligible to claim the concessional rate of Basic Customs Duty (BCD) under Sl. No. 9 of Notification No. 57/2017-Customs dated 30.06.2017 (as amended) for the import of automotive tapes, films, and labels classified under CTI 3919 90 90?

ii. Whether the Appellant is eligible for exemption from the Social Welfare Surcharge (SWS) under Notification No. 24/2015-Customs dated 08.04.2015?
iii. Whether interest under Section 28AA of the Customs Act, 1962 is mandatorily recoverable?

Issue I: Eligibility under Notification No. 57/2017-Customs (as amended)

4.5 The charging section for the levy of customs duty is Section 12 of the Customs Act, 1962, read with the First Schedule to the Customs Tariff Act, 1975. Under these provisions, the statutory Tariff Rate of basic customs duty for goods falling under Customs Tariff Item (CTI) 39199090 is 15% ad-valorem. The Appellant has sought to bypass this statutory rate by claiming a concessional rate of 10% under Sl. No. 9 of Notification No. 57/2017-Customs (as amended by Notification No. 22/2018-Customs), which was issued under Section 25(1) of the Customs Act, 1962.

4.6 The Appellant's primary contention is based on a literal reading of Sl. No. 9, arguing that it exempts "all goods" falling under CTI 39199090 except for certain specified mobile phone parts. Since their imported items (automotive protection films, polyurethane tapes, warning labels) are not among the excluded mobile phone parts, they argue they automatically qualify for the 10% rate. To support this, they have relied on cases like *Hemraj Gordhandas* and *Modi Sugar Mills*, contending that there is no room for intendment in a taxing statute.

4.7 I find this argument legally fundamentally flawed and not acceptable. The power to grant exemption under Section 25(1) of the Customs Act, 1962 is exercised by the Central Government "being satisfied that it is necessary in the public interest so to do." To understand the public interest and the scope of the exemption, one cannot read a single serial number in isolation. Notification No. 57/2017-Customs was specifically promulgated to prescribe effective rates of customs duty for the Information Technology (IT), electronics, and telecommunications sector, aligning with the Government's Phased Manufacturing Programme (PMP) for cellular mobile phones. The doctrine of *Noscitur a sociis* (the meaning of an unclear word or phrase should be determined by the words immediately surrounding it) dictates that the phrase "All goods" under a specific tariff item in an electronics-focused notification inherently means "All electronic goods/components" falling under that tariff item.

4.8 Interpreting an electronics sector notification to grant a blanket duty concession to an automobile manufacturer for car decals and masking tapes would defeat the very purpose of Section 25(1) and lead to absurd results not intended by the legislature. The Appellant has heavily relied on the Constitution Bench judgment of the Hon'ble Supreme Court in *Commissioner of Customs v. Dilip Kumar & Co. [2018 (361) E.L.T. 577 (SC)]*. However, the Appellant has selectively read the judgment. In *Dilip Kumar*, the five-judge bench unequivocally settled the law regarding exemption notifications, holding that:

(1) Exemption notifications should be interpreted strictly; the burden of proving applicability is on the assessee to show that his case comes within the parameters of the exemption clause or exemption notification.

(2) When there is ambiguity in an exemption notification which is subject to strict interpretation, the benefit of such ambiguity cannot be claimed by the subject/assessee and it must be interpreted in favour of the revenue.

4.9 Applying the binding ratio of *Dilip Kumar*, the Appellant has failed to discharge the burden of proving that their automotive tapes fall within the targeted scope of the electronics exemption notification. Consequently, the

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benefit of the ambiguity (the broad use of "all goods" in a sector-specific notification) must be resolved in favour of the Revenue.

4.10 With regard to reliance on the TRU Letter D.O.F. No. 334/4/2018-TRU dated 01.02.2018, the Appellant argues this letter proves the intent to retain 10% BCD on all other goods under 3919 90 90. However, executive circulars or letters explaining Budgetary changes for the electronics sector cannot expand the scope of a notification to an entirely unrelated industry. The TRU letter's reference to "other goods" strictly refers to other *electronic components* under that tariff item. Therefore, the Adjudicating Authority legally and rightfully denied the benefit of Sl. No. 9 of Notification No. 57/2017-Customs, confirming the demand under Section 28(1) of the Customs Act, 1962.

4.11 It is also necessary to examine the exemption entry not merely in a literal vacuum, but through the lens of the General Rules for the Interpretation (GRI) of the Import Tariff, which are statutory principles enshrined in the Customs Tariff Act, 1975, and whose underlying logic extends to the interpretation of exemption notifications linked to the Tariff.

4.12 Rule 1 of the GRI dictates that classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes. By applying GRI 1, the goods in question fall under Chapter 39 (Plastics and articles thereof). They do not fall under Section XVI (Chapter 84/85), which covers machinery, electrical, and electronic equipment. Notification No. 57/2017-Customs was promulgated explicitly to prescribe effective rates of customs duty for the Information Technology (IT), electronics, and telecommunications sector. The Notification selectively borrows certain Chapter 39 tariff items (like 39199090) strictly because specialized adhesive tapes and films act as integral inputs/components for manufacturing electronic goods and cellular mobile phones. The inherent identity of the Appellant's goods, as determined by their nature and end-use, is automotive industrial plastic, completely alien to the electronics ecosystem.

4.13 Furthermore, Rule 3(a) of the GRI postulates that a heading which provides a more specific description shall be preferred to a heading providing a more general description. Applying this established jurisprudential principle to the interpretation of the exemption notification, the description "All goods" appearing under an electronics-sector notification must be read specifically as "All electronic-grade/telecom-grade goods" under that tariff item, rather than a generic, unbounded catch-all phrase. If the phrase "All goods" in a sector-specific notification were interpreted to mean literally every plastic tape in the universe—including automotive decals and warning labels—it would render the specific

intent, title, and sectoral alignment of the notification redundant. The doctrine of Noscitur a sociis (words must be construed in conjunction with the company they keep) reinforces this GRI principle; the words "All goods" draw their color and restriction from the electronics nature of the parent notification.

4.14 Thus, based on the above I opine that the goods imported by the Appellant are not eligible for the benefit of Sl. No. 9 of Notification No. 57/2017-Customs dated 30.06.2018

Issue II: Exemption from Social Welfare Surcharge (SWS)

4.15 The Appellant claimed exemption from SWS relying on Notification No. 24/2015-Customs, dated 08.04.2015. It is critical to note the statutory origin of these levies. Basic Customs Duty is levied under Section 12 of the Customs Act, 1962. However, the Social Welfare Surcharge is an independent, distinct levy imposed later under Section 110 of the Finance Act, 2018.

4.16 Notification No. 24/2015-Customs was issued under Section 25(1) of the Customs Act, 1962, and provides exemption strictly from the customs duty leviable under the First Schedule to the Customs Tariff Act, 1975. The law on the cross-applicability of exemptions is no longer *res integra*. The Hon'ble Supreme Court in the landmark case of *M/s Unicorn Industries v. Union of India [2019 (370) ELT 3 (SC)]* definitively ruled that an exemption notification issued under the parent act (Customs/Excise) exempting basic duties does not automatically grant exemption from surcharges or cesses levied under a separate Finance Act, unless the notification explicitly mentions the exemption of such specific surcharges.

4.17 Notification No. 24/2015-Customs (as amended) does not contain any explicit statutory provision exempting the Social Welfare Surcharge levied under Section 110 of the Finance Act, 2018. Therefore, applying the strict interpretation of exemption notifications and the binding precedent of *Unicorn Industries*, the SWS is legally recoverable from the Appellant.

Issue III: Recovery of Interest under Section 28AA

4.18 The Appellant has contested the levy of interest on the ground that if the principal demand is not sustainable, the interest is not leviable, placing reliance on the Apex Court's decision in *Prathibha Processors v. Union of India [1996 (88) E.L.T. 12 (S.C.)]*.

4.19 This argument is entirely devoid of merit given my findings above. The provisions of Section 28AA of the Customs Act, 1962 are explicit, mandatory,

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and automatic. The section begins with a non-obstante clause: *"Notwithstanding anything contained in any judgment, decree, order or direction of any court... the person, who is liable to pay duty in accordance with the provisions of section 28, shall, in addition to such duty, be liable to pay interest..."*.

4.20 The *Prathibha Processors* judgment is distinguishable as it applies only to situations where the principal amount of duty is definitively nil due to a valid exemption. In the present case, since I have upheld that the Appellant is not eligible for the exemption, the principal duty liability under Section 28(1) is firmly established. Consequently, the levy of interest under Section 28AA is an inescapable statutory consequence of the short-payment of duty. The Adjudicating Authority has correctly confirmed the interest liability.

4.21 In light of the above findings, I find that the Adjudicating Authority has correctly appreciated the facts and the law. The Appellant, an automobile manufacturer, cannot avail the benefit of an exemption notification exclusively designed for the electronics and cellular mobile phone sector by reading a single entry in isolation. Furthermore, the Social Welfare Surcharge is correctly demanded in light of the Apex Court's ruling in *Unicorn Industries*. Further, I also find that the judgment of Hon'ble Supreme Court in the case of M/s Modi Rubber Ltd. reported at 1999 (114) E.L.T. 769 (S.C.) held that exclusion clause therein to be interpreted with regard to the principal clause - Classifications contained in principal clause relevant for interpreted exclusion clause - Section 25 of the Customs Act, 1962 corresponding to Section 5A of the Central Excise Act, 1944 and the same is squarely applicable in the present case.

5. I find no infirmity in the Impugned Order passed by the Additional Commissioner of Customs (Preventive), Jamnagar. I uphold the Order-In-Original No. 12/Additional Commissioner/2022-23 dated 27.12.2022 in its entirety. The appeal filed by M/s Ford India Private Limited is hereby rejected.



Vishwajeet Singh
22.10.2026.

(Vishwajeet Singh)
Commissioner (Appeals),
Customs, Ahmedabad

F. No. S/49-270/CUS/JMN/2022-23

By Registered post A.D/Email

M/s Ford India Private Limited, Revenue Survey No. 6, Village North Kotpura, Taluka; Sanand, Ahmedabad 382170

Copy to,

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad. (email: ccoahm-guj@nic.in).
2. The Commissioner, Customs (Prev), Jamnagar.
3. The Deputy/Assistant Commissioner, Custom Division, Pipavav
4. Guard File