



## सीमाशुल्क(अपील) आयुक्तकाकार्यालय,

OFFICE OF THE COMMISSIONER OF CUSTOMS(APPEALS), अहमदाबाद AHMEDABAD,  
चौथीमंजिल 4th Floor, हड्डको बिल्डिंग HUDCO Building, ईश्वर भुवन रोड IshwarBhuvan Road,  
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009  
दूरभाषक्रमांक Tel. No. 079-26589281

DIN- 20250771MN000000DEE1

क	फाइलसंख्या FILE NO.	S/49-66/CUS/MUN/2024-25
ख	अपीलआदेशसंख्या ORDER-IN-APPEAL NO. (सीमाशुल्कअधिनियम, 1962 की धारा 128के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	MUN-CUSTM-000-APP-125 -25-26
ग	पारितकर्ता PASSED BY	SHRI AMIT GUPTA Commissioner of Customs (Appeals), AHMEDABAD
घ	दिनांक DATE	10.07.2025
ङ	उद्भूतअपीलआदेशकीसं. वदिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	OIO No. MCH/ADC/MK/180/2023-24, dated 06.10.2023
च	अपीलआदेशजारीकरनेकीदिनांक ORDER- IN-APPEAL ISSUED ON:	10.07.2025
छ	अपीलकर्ताकानामवपता NAME AND ADDRESS OF THE APPELLANT:	M/s. JP Overseas (IEC No. BUIPS3937H), Plot at Kh. no.18/3, ground floor, ph-2, E-block, Qutub Vihar, New Delhi-110071

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.	
	खेत 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.	
(ब)	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	
(ब)	4 copies of the Order-in-Original, in addition to relevant documents, if any	
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां	
(c)	4 copies of the Application for Revision.	
(ध)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथासंशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मर्दों 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 व्याज, लगाया गया दंड की राशि और रूपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु.200/- और यदि एक लाख से अधिक हो तो फीस के रूप में रु.1000/-	
(d)	The duplicate copy of the T.R.6 challan evidencing payment of Rs.200/- (Rupees two Hundred only) or Rs.1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-.	
4.	मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन पॉर्म सी.ए.3 में सीमाशुल्क, केंद्रीय 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 अपीलियाधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench
	दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 <sup>nd</sup> Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016



5.	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.
(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; पाँच हजार 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 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 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. JP Overseas, Plot at Kh. no.18/3, ground floor, ph-2, E-block, Qutub Vihar, New Delhi-110071 having IEC BUIPS3937H (hereinafter also referred to as "the appellant") have filed the present appeal under Section 128 of the Customs Act, 1962, challenging the Order - In - Original (OIO) No. MCH/ADC/MK/180/2023-24, dated 06.10.2023 issued by the Additional Commissioner of Customs, Custom House, Mundra (hereinafter referred to as 'adjudicating authority').

2 Facts of the case in brief are that the appellant had filed a Bill of Entry No. 5744615 dated 29-04-2023 through their Custom Broker M/s. Mahabali Shipping declaring the goods as "New Off Road Tyres". The goods totaling 812 in number had been supplied by M/s. Shandong Linglong Tyres Co. Ltd. China. The assessable value of the goods has been declared as Rs. 10,24,426.28/- and total duty declared as Rs.4,31,078/-(BCD @ 10%, SWS@10%& IGST @ 18%).

2.1 The Special Intelligence & Investigation Branch (SIIB) Section of Customs, Mundra had initiated an investigation on the basis of NCTC email dated 01-05-2023, which revealed that the importer has imported the first time such type of tyres and suppliers namely M/s. Shandong Linglong Tyres Co. Ltd. China is regular supplier of radial Tyres in India. There is requirement of mandatory BIS certification for import of New Pneumatic Tyres viz. two and three wheeled motor vehicles, tyres for passenger car vehicles, tyres for commercial vehicles. The possibility of mis-declaration was for the reasons that this is the first import of the importer and the supplier i.e. M/s. Shandong Linglong Tyres Co. Ltd. China is a regular supplier of Radial Tyres to India. The goods were examined under Panchnama dated 02-05-2023 drawn at Saurashtra CFS, Mundra. Examination of the goods revealed that out of the total 812 tyres, a quantity of only 552 Pcs of tyres were found with BIS Marking: IS:15333 with CM/L no. 4021937. On verification of the CML No., it was observed that the said CML No. pertains to the supplier M/s Shandong Linglong Tyre Co., Ltd. No. 777, Jinlong, Road Zhaoyuan City, Shandong Province China.

2.2 The Investigation Report concluded after the examination and further statements of the representative of Importer and investigations conducted that the goods are new Radial Tyres and merits classification as "new pneumatic radial tyres, of rubber" under CTH 40111010. Thus, the



importer had attempted to import the restricted Goods i.e. "pneumatic radial tyres of rubber" by mis-declaring the same as New off Road Tyres (CTH 40118000) without obtaining mandatory Import Authorization from DGFT as required in terms notification No. 12/2015-20 dated 12-06-2020, Sr No. 1, issued by DGFT. The importer also attempted to evade Customs Duty of 72,120/- by mis-declaration.

2.3 Therefore, the goods were liable for confiscation under Section 111(d) & 111(m) of the Customs Act, 1962 and the importer is liable for penal action under Section 112(a) (i) of the Customs Act, 1962. The importer also requested for waiver of the show cause notice and personal hearing in the matter with necessary adjudication proceeding/action as per the Customs Act, 1962.

3 The adjudicating authority decided the above show cause notice vide the impugned order wherein she ordered as under ;

- i. She rejected the classification of goods under CTH No. 40118000 and ordered to re-classify the goods under CTH 40111010 as discussed in para 13 to 15 of impugned order and ordered for re-assessment of the Bill of Entry No. 7915287 dated 20-09-2023 under Section 17(4) of the Customs Act, 1962.



She ordered confiscation of the Imported goods viz. 812 tyres imported under Bill of Entry No. 5744615 dated 29-04-2023 having a assessable value of 10,24,426/- (Rupees Ten Lakhs Twenty Four Thousand Four Hundred Twenty Six Only) under Section 111 (d) of the Customs Act, 1962 and 111(m) of the Customs, Act, 1962. However, she gave an option to the Importer to redeem the confiscated goods on payment of redemption fine of 1,50,000/- (Rupees One Lakh Fifty Thousand only under Section 125 of the Customs Act, 1962 for the limited purpose of re-export only.

- iii. She imposed a penalty of 75,000/- (Rupees Seventy Five Thousand Only) on appellant under Section 112(a)(i) of the Customs Act, 1962.
4. Being aggrieved with the impugned order, the appellant have filed the present appeal.

5. Before going into the merits of the case, I find that as per appeal memorandum, the present appeal has neither been been filed within statutory time limit of 60 days prescribed under Section 128(1) of the Customs Act, 1962 nor pre-deposit has been made in terms of Section 129E of the said Act.

5.1 In this regard, it is relevant to refer the legal provisions governing filing an appeal before the Commissioner (Appeals) and his powers to condone the delay in filing appeals beyond 60



days. Extracts of relevant Section 128 of the Customs Act, 1962 are reproduced below for ease of reference:

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

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

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

5.1.1 It is observed from the Appeal Memorandum that the appellant has received the impugned order on 20.10.2023 and the appeal has been filed on 03.06.2024. Hence there is delay of 227 days in filing of appeal beyond the time limit of 60 days prescribed under Section 128(1) of the Customs Act, 1962. The appellant has in the application for condonation of delay mentioned the delay of 160 days which is incorrect. The appellant has submitted that they had handed over the appeal papers to the authorized person who was unwell.

5.1.2 Therefore, I find that there is delay of 227 days in filing of Appeal beyond the appeal period of 60 days. As per the proviso to Section 128 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. It will also be relevant to refer to the judgment of Hon'ble Supreme Court in case of Singh Enterprises – [2008 (221) E.L.T. 163 (S.C.)], wherein the Hon'ble Apex Court had, 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 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 relevant para is reproduced below:

*“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."*



5.1.3 The above view was reiterated by the Hon'ble Supreme Court in 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.

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

5.1.5 In light of the above observation, I find that the appeal has been filed after 90 days from the date of receipt of the impugned order and the same is held to be time barred under Section 128 of the Customs Act, 1962. I am not empowered to condone the delay in filing the appeal beyond 30 days.

5.2. It is also noticed that the appellant has not made the pre-deposit as mandated under Section 129E of the Customs Act, 1962. The appellant has submitted an application for dispensing with the pre-deposit on the ground that the appellants' managing /signatory Partner/ Director was unwell and facing financial crunch. The appellant was also granted personal hearing in the case on 27.05.2025, 12.6.2025, 26.06.2025 and 03.07.2025. However, neither the Appellant /Authorised person appeared for the hearing.

5.2.1 It is relevant to refer to the law pertaining to filing of appeals before the Commissioner (Appeals) and the law requiring the pre-deposit of certain amount in respect of filing an appeal before the Commissioner (Appeals) contained under Section 128 and Section 129 E of the Customs Act, 1962 respectively. The text of relevant sections is reproduced below for ease of reference.

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

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

*[(1A) The Commissioner (Appeals) may, if sufficient cause is shown at any stage of hearing of an appeal, grant time, from time to time, to the parties or any of them and adjourn the hearing of the appeal for reasons to be recorded in writing : Provided that no such adjournment shall be granted more than three times to a party during hearing of the appeal.]*

*(2) Every appeal under this section, shall be in such form and shall be verified in such manner as may be specified by rules made in this behalf.*

**SECTION 129E. Deposit of certain percentage of duty demanded or penalty imposed before filing appeal. — The Tribunal or the Commissioner (Appeals), as the case may be, shall not entertain any appeal, —**

*(i) under sub-section (1) of section 128, unless the appellant has deposited seven and a half per cent. of the duty, in case where duty or duty and penalty are in dispute, or penalty, where such penalty is in dispute, in pursuance of a decision or an order passed by an officer of customs lower in rank than the [Principal Commissioner of Customs or Commissioner of Customs];*

*(ii) against the decision or order referred to in clause (a) of sub-section (1) of section 129A, unless the appellant has deposited seven and a half per cent. of the duty, in case where duty or duty and penalty are in dispute, or penalty, where such penalty is in dispute, in pursuance of the decision or order appealed against;*

(iii) against the decision or order referred to in clause (b) of sub-section (1) of section 129A, unless the appellant has deposited ten per cent. of the duty, in case where duty or duty and penalty are in dispute, or penalty, where such penalty is in dispute, in pursuance of the decision or order appealed against :

*Provided that the amount required to be deposited under this section shall not exceed rupees ten crores :*

*Provided further that the provisions of this section shall not apply to the stay applications and appeals pending before any appellate authority prior to the commencement of the Finance (No. 2) Act, 2014.]”*

5.2.2 On perusal of the legal provision under the Section 128 and Section 129E of the Customs Act, 1962, it is observed that any person aggrieved by any decision or order passed under the Customs Act, 1962 may appeal to the Commissioner (Appeals) within sixty days from the date of communication to him of such decision or order. However, such appeal filed by the appellant shall not be entertained unless the appellant has made a pre-deposit as prescribed under Section 129E of the Customs Act, 1962. Thus, it is mandatory for an appellant to deposit the seven and a half per cent of the duty, in case where duty or duty and penalty are in dispute, or penalty, where such penalty is in dispute. The statutory provision pertaining to requirement of payment of pre-deposit does not grant any discretion to the Commissioner (Appeals) to waive the requirement of pre-deposit.

5.2.3 In this regard, I also rely upon the judgment of Hon’ble High Court of Madhya Pradesh in case of Ankit Mehta V. Commissioner of CGST, Indore, [2019 (368) E.L.T. 57 (M.P.)], wherein the Hon’ble High Court of Madhya Pradesh has observed that Section 129E of the Customs Act, 1962 does not empower the Commissioner (Appeals) to waive the pre-deposit or to reduce the pre-deposit. The relevant para of the judgment is reproduced hereunder:

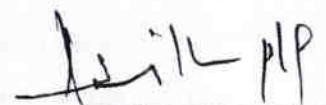
“13. This Court after careful consideration of the aforesaid judgments is of the opinion that Section 129E does not empower the Tribunal or the Commissioner (Appeals) to waive the pre-deposit or to reduce the pre-deposit, this Court is also not inclined, keeping in view the aforesaid statutory provision of law to waive or reduce the pre-deposit and, therefore, no case for interference is made out in the matter.”

5.2.4. Section 129E of the Customs Act, 1962 provides that the Commissioner (Appeals) shall not entertain any appeal under Section 128 of the Customs Act, 1962 unless the appellant has deposited seven and half percent of duty in case where duty or duty and penalty are in dispute, or penalty, where such penalty is in dispute, in pursuance of a decision or an order

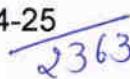
passed by an officer of customs. Since, the Appellant have not made pre-deposit as required under the Section 129E of the Customs Act, 1962, the appeal filed by the Appellant is required to be dismissed on this ground also.

6. In view of above, I dismiss the appeal on the grounds of limitation as well as failure to pay pre-deposit under Section 129E of the Customs Act, 1962 without going into the merits of the case.



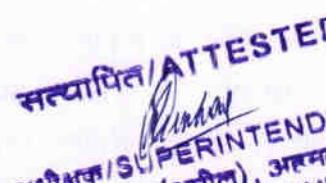
  
 (AMIT GUPTA)  
 Commissioner (Appeals)  
 Customs, Ahmedabad

Date: 10.07.2025

F.No. S/49-66/CUS/MUN/2024-25  


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