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 – 20260371MN0000424424

क	फाइल संख्या FILE NO.	S/49-303/CUS/AHD/24-25
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) :	AHD-CUSTM-000-APP-706-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	30.03.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	OIO No.: 01/AC/ICD/IMP/REF/2025 dt. 08.01.2025 passed by the Assistant Commissioner of Customs , ICD Khodiyar, Ahmedabad, Gujarat
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	30.03.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Meghmani Industries Limited , Unit-II, Plot No. 27, Vatva GIDC Industrial Estate, Phase-I, Vatva, Ahmedabad – 382445. manohar@meghmanidyes.com kalpesh@mil2.meghmanidyes.com

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 imported on baggage
(ख (	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो.
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.
(ग (	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी.
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
.3	पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :
	The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :
(क)	कोर्ट फी एक्ट,1870 के मद सं.6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए.
(a)	4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870.
(ख)	सम्बद्ध 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.	

आयुक्त (अपील), सीमा शुल्क कार्यालय अहमदाबाद

Order-In-Appeal

M/s. Meghmani Industries Limited, Unit-II, Plot No. 27, Vatva GIDC Industrial Estate, Phase-I, Vatva, Ahmedabad – 382 445 (hereinafter referred to as "the Appellant") have filed the present appeal challenging the Order-In-Original No.: 01/AC/ICD/IMP/REF/2025 dt. 08.01.2025 (hereinafter referred to as 'the impugned order') passed by the Assistant Commissioner of Customs , ICD Khodiyar, Ahmedabad, Gujarat (herein after referred to as "the adjudicating authority").

2. Facts of the case, in brief, are that the appellant have filed three Bills of Entry for import raw material Cyanuric Chloride , details of the same is mentioned below in Table-I.

Table-I

SN	BOE No. & date	Qty.	TV USD /per kg	AV-USD /per kg	Ex. Rate per USD	Ass. Value	Custom Duty		Total duty paid
							BCD	IGST	
1	4692972 29.08.19	15MT	1.55	1.90	71.85	2047725	168937	398999	567937
2	4992171 dated 21.09.19	15MT	1.55	1.90	72.20	2057700	169760	400943	570703
3	4691352 29.08.19	15MT	1.55	1.90	71.85	2047725	168937	398999	567937

The assessing officer based on the NIDB data, assessed the above bill of entries at increased rate / value of USD 1.90 per kg instead of declared transaction value of USD 1.55 per kg vide Order in Original No.: 122/ DC/ ICD-KHOD /GR.II / 2019 Dated 19.09.2019. and 128/ DC/ ICD-KHOD /GR.II /2019 Dated 26.09.2019. The appellant paid the Customs duty of Rs. 93,512/- through MEIS Scrip. Aggrieved by this OIO, the appellant filed the appeal with the Commissioner of Custom (Appeals) which was rejected by vide Order in Appeal no. AHM-CUSTM -000- APP-408-412 -20-21 Dated 19.11.2020 passed by the Commissioner of Customs (Appeals), Ahmedabad. The CESTAT, Ahmedabad vide Final Order No. FO/C/A/10121-10123/2024-CU[DB] dated 09-01-24 set aside the above order. The same has been accepted by the department on 29.01.2024 on monetary grounds. Accordingly, on the basis of the CESTAT Final order, the Bills of Entry mentioned at Table-I were re-assessed in the EDI system.

2.1 The appellant in pursuance of the above CESTAT order filed refund claim of Rs. 93,152/- under Section 27(1) (a) of the Customs Act, 1962. The adjudicating authority i.e. Assistant Commissioner, ICD-Khodiyaar, Gandhinagar, Ahmedabad rejected the refund claim of the appellant by observing as under:

"8. Further, paragraph 3.11.6 of HBP contains the procedures for issuance of fresh scrips in cases where Duty Credit Scrip has been used for imports, as per the procedure prescribed in the said Paragraph, Customs shall issue a certificate containing particulars of scrip used, date of import of re-exported goods and amount debited while importing such goods. Based on this certificate, upon application, a fresh Scrip shall be issued by concerned RA to extent of 98% of debited amount, with same port of registration and valid for a period equivalent to balance period available on date of import of the defective /unfit goods.

9. Now, RODTEP is a new scheme and MEIS Scheme is no more in existence. Till date. there is no specific procedure prescribed for dealing the re-credit the duty scrip used for the payment of Customs duty at the time of import. Based on the above this office vide letter No. VIII/20-14/ICD/Ref/2024 Dtd 29.05.2024 & 07.10.2024 had written to the DGFT Authority for re-crediting the above mentioned against each licence and re-validate the same as per norms prevailing. But till date no reply received

10. I find t it worth to reproduce the Validity period and Revalidation as prescribed in Para 3.13 of the DGFT Handbook of Producedure 15-20 which read as under

3.13 Validity period and Revalidation:

Duty Credit Scrip shall be valid for a period of 18 months from the date of issue and must be valid on the date on which actual debit of duty is made. Revalidation of Duty Credit Scrip shall not be permitted unless covered under paragraph 2.20(c) of HBP

1 find that claimant has used the MEIS Licence No. 0819047474/11 04.2019 and 3719008957/22.02 2019. Thus both the said MEIS Licences are expired. On expiry of the validity period, the beholder of scrip cannot use the credit available therein and there is no scheme to redeem the credit available in balance through cash refund either from the Customs or DGFT. I find that claimant is well conversant with the aforesaid procedure, even though to encash the expired credit have attempted to get the cash refund by filing refund application which cannot be allowed without any authority as the DOFT is the competent authority to allow the credit.

11. I find that, the claimant has filed the refund claim of total Rs 93,512/-, ie, excess payment of duty paid and the same was paid through MEIS Licenses as mentioned in Tabel-B. However, the claimant has to approach DGFT for re-credit of MEIS License 1 find that DGFT is the authorised agency who is empowered to re-credit the MEIS. Also, I find that the adjudicating authority does not hold any jurisdiction to re-credit the same. I find that the MEIS is needed to be re-credited by DGFT only I find that the importer is eligible for re-credit of MEIS. Hence, the importer is required to apply to DGFT for getting the same properly re-credited."

3. Being aggrieved by the impugned order, the appellant has filed the present appeal dated 24.02.2025 before the Commissioner (Appeals), Customs, Ahmedabad. The appellant has submitted the grounds of appeal , the same are reproduced as under:

(i) The adjudicating authority has had ill-advised himself in rejecting the refund application of the appellant knowing fully that the refund arisen after the CESTAT allowed the appeal of the appellant and the said order is being accepted by the department. This order has resulted in refund of excess duty recovered by the department at the time of clearance without any authority of law. Thus the excess duties recovered by the department is illegal and can not be retained by the them but to be refunded to the appellant. The benefit conferred to the appellant by law can not merely be denied as there is no express provision to refund the excess duty so paid in cash. It is a matter of common understanding that when the excess duty is recovered and when it is held to be illegal by the higher legal forum, it has to be refunded back in the legally valid form at the time of refund, as retention thereof by department violates the constitutional provisions of Article 265 and 300A.

The appellant submits that by virtue of provisions of Article 265 of the Constitution, no tax could have been levied or collected from the appellant except by authority of law. the appellant had to deposit excess duty with the department and it is now established that the revenue had no authority of law for levying or collecting such amount as tax. Article 300A of the Constitution mandates that no person could be deprived of property save by authority of law. Since it is now established that the department had no authority of law to have recovered any amount from the appellant in this case, it is obvious that excess duty paid by the appellant was actually the deprivation of the appellant's property without any authority of law. For breach of both these constitutional mandates i.e. breach of Article 265 as well as Article 300A of the Constitution, the State is obliged to refund the excess duty so recovered with interest. Thus any order which goes against the constitutional and fundamental rights of the appellant is required to be set aside forthwith.

(ii) The adjudicating authority had erred in crediting the refundable duty in the MEIS script relying on the irrelevant provisions of para 3.11.6 of Hand book of procedures 9HBP), under the pretext that at the material time it was paid through MEIS scripts. The appellant submits relied upon para 3.11.6 deal with the credit of duty paid on the re-exports of imported goods, which is not the case in the present issue. In this case, because of assessment at presumptively inflated value by the revenue, the appellant was forced to pay the excess duty at the time of clearance. Had it was not the case, then the appellant would have utilized the MEIS balance on payment of their other imports. Therefore, the relied upon para of HBP is neither applicable nor relevant.

The adjudicating authority is aware that the MEIS Scheme has been discontinued from Jan, 2021 and so is its utilization. When the appellant has paid the duty, the MEIS scripts through which the duties were paid was legally valid and within its validity period. Therefore, when the recovery of excess duties held to be illegal, the authority cannot credit the same in already defunct scheme/ scripts and thus denying the benefit/ relief granted by the honorable by CESTAT.

It is just like the excess recovery made prior to demonetization in legal tender of Rs. 500/ Rs.1000 notes and refunding the same in same notes which is no longer legal tender, when the said recovery is held to be invalid.

Similarly, if go by the logic of the adjudicating authority, in any litigation matter, if any duty paid through DEPB scripts in past and now the matter is decided in favour of the appellant , will the duty be refunded by credit to DEPB after 20 years of scheme being discontinued?

Therefore, it raises the serious question about the application of mind by the authority while deciding the refund which is arising out of the matter already decided in favor of the appellant. If the approach adopted by the adjudicating authority is allowed to proceed, the whole process of getting the justice through appellate process shall get vitiated. Therefore, the reassessment of bills of entries and crediting the same in MEIS scheme which is not more legally operational is illegal and arbitrary and liable to set aside.

(iii) The learned assistant commissioner had erred in passing of the buck to DGFT authority, as DGFT authority has no role in refund of excess recovered duties without any authority of law. The appellant submit that the duties are being paid to and recovered by custom. It is immaterial if the duties are paid through cash or

scripts which is also one of the mode legally allowed by the government to make the payment of duties. The exim scripts are nothing but cash equivalent, which is issued to the exporters to incentivize the exporters. As soon as the payment is made to the custom, MEIS or any other scripts gets liquidated and the equivalent benefit in collection of revenue accrues to the custom and therefore, when it come to refund of the excess duties paid through scripts, it cannot escape from its obligation to refund the same in legally valid scripts or cash refund. The DGFT role is over as soon as the script is issued on the basis of exporters entitlement and utilized at initial payments. Thus adjudicating authority taking the stand that DGFT should re-credit or the appellant should approach the DGFT for re-credit there of in MEIS scripts, which is no more in operation for refund of the excess paid duty is illogical and irrational and therefore has to be outrightly rejected. Even otherwise also, the MEIS scheme itself is no more valid and in existence and therefore, neither the credit of such refundable duties to MEIS nor the utilization there of is possible and therefore, the appellant who is legally entitled to get the refund of excess duty paid can not be put to the advantageous position at the whims of adjudicating authority.

(iv) Without prejudice, the adjudicating authority has failed to follow the set and established process of refund in such case at other ports, which has the sanction and approval of the CBIC Board. The appellant submit that the office of the Commissioner of Custom , NS-III have issued a standing order No.04/2019 dated 25.02.2019 which deal with such situation . ***Para 2. F of the said standing order cover such situation where appellate authorities have set aside the assessment order especially loading of value and such orders are accepted by the revenue****. The said standing clearly defines the process of reassessment, its time limit and how to grant the refund. It stats that consequential refund is to be granted by the Central Refund Section (CRC), which may be equivalent to technical section of the commissionerate. Since this standing order is followed by India's largest port, it is equally applicable to the small land custom port like ICD Khodiyar and therefore, the same process should have followed and refund must have been granted and paid in accordance with the said standing order instead of writing to DGFT, which is not a refund sanctioning authority. A copy of the said standing order is enclosed herewith as* ***Annexure B.***

(v) The learned assistant commissioner has erred in rejection of refund application in cash knowing that the re-credit of the same in already defunct MEIS scheme and expired license will render the positive CESTAT order in favour of the appellant meaningless. This will result in department holding the illegal recovery of excess duties without any authority of law under the pretext of not having the

express provision of refunding the excess recovery in cash. This understanding of adjudicating authority goes against the common sense and basic understandings in the refund matter that any refund arising court of court proceeding to be refunded in such a manner that the appellant get the full benefit of award in their favour with compensation in form of interest. The finding of the adjudicating authority is against the very basics of natural and equitable justice where the appellant despite of having the decision in their favour rendered themselves at receiving end is required to be set aside.

The appellant also submits that In the landmark judgment of the Hon'ble Supreme Court in case of Union of India V/s. Tata Chemicals Ltd. reported in ***(2014) 6 Supreme Court Cases 335,*** *the Hon'ble Apex Court has conclusively held that the Revenue was obliged and bound to pay interest to the assesse when the appeal filed by the assesse succeeded and the Appellate Authority directed for refund. In paras 37 and 38 of the judgment, the Hon'ble Supreme Court has observed as under:-*

"37............In the appeal filed against the said order the assessee has succeeded and a direction is issued by the appellate authority to refund the tax paid. The amount paid by the resident/deductor was retained by the Government till a direction was issued by the appellate authority to refund the same. When the said amount is refunded it should carry interest in the matter of course. As held by the Courts while awarding interest, it is a kind of compensation of use and retention of the money collected unauthorisedly by the Department. When the collection is illegal, there is corresponding obligation on the Revenue to refund such amount with interest inasmuch as they have retained and enjoyed the money deposited. Even the Department has understood the object behind insertion of Section 244-A, as that, an assessee is entitled to payment of interest for money remaining with the Government which would be refunded. ....".

"38. Providing for payment of interest in case of refund of amounts paid as tax or deemed tax or advance tax is a method now statutorily adopted by fiscal legislation to ensure that the aforesaid amount of tax which has been duly paid in prescribed time and provisions in that behalf form part of the recovery machinery provided in a taxing statute. Refund due and payable to the assessee is debt-owed and payable by the Revenue. The Government, there being no express statutory provision for payment of interest on the refund of excess amount/tax collected by the Revenue, cannot shrug off its apparent obligation to reimburse the deductors lawful monies with the accrued interest for the period of undue retention of such monies. The State

having received the money without right, and having retained and used it, is bound to make the party good, just as an individual would be under like circumstances. The obligation to refund money received and retained without right implies and carries with it the right to interest. Whenever money has been received by a party which ex ae quo et bono ought to be refunded, the right to interest follows, as a matter of course".

Thus, it is a settled legal position that the obligation to refund money received and retained without a right, implies and carries with it the right to interest. Whenever any money is received by any person and the money is ultimately refunded, the right to interest follows, as a matter of course.

In view of the above stated facts and legal position, the Assistant Commissioner, ICD Khodiyar, Ahmedabad had grossly erred in rejecting the refund application made by the appellant without any justification and therefore, the impugned order is liable to be set aside and refund applied may please be allowed with applicable interest till the actual date of grant of refund in cash or other legally valid form.

(vi) The impugned order even otherwise is also arbitrary, illegal and not just and proper in the eyes of law and need to be set aside.

PERSONAL HEARING:

4. In pursuance of the principles of natural justice, an opportunity of personal hearing was granted to the appellant. Accordingly, personal hearing in the matter was held on 11.12.2025, wherein Shri Manohar Maheshwari , Sr. Vice President, Commercial of the appellant firm appeared and presented the case in virtual. During the course of personal hearing, he reiterated the grounds of appeal and made submissions in support of the appeal.

DISCUSSION & FINDINGS:

5. Before going into the merits of the case, it is observed from the Form C.A.-1 that the impugned order dated 08.01.2025 is shown to have been received on 18.01.2025 and that the present appeal has been filed on 03.03.2025. Accordingly, the present appeal has been filed within the normal period of 60 days prescribed for filing an appeal under Section 128(1) of the Customs Act, 1962.

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5.1 The present issue pertains to rejection of refund to the appellant. Since the appeal does not involve any demand of duty or imposition of penalty, the requirement of mandatory pre-deposit under Section 129E of the Customs Act, 1962 is not applicable.

5.2 As the appeal has been filed within the stipulated time-limit under Section 128(1) of the Customs Act, 1962, and the requirement of mandatory pre-deposit under Section 129E is not applicable in the present case, the appeal is admitted and taken up for disposal. One set of the appeal memorandum has forwarded to the adjudicating authority for comments vide this office letter dated 03.04.2025, but no reply thereof has been received. So, I proceed to decide the appeal on the basis of documents submitted by the appellant.

6. I have carefully examined the impugned order, the appeal memorandum filed by the appellant, the written and oral submissions made during the course of hearing, as well as the documents and evidence available on record. The primary issue to be decided in the present appeal is whether the adjudicating authority was justified in rejecting the refund claim filed by the appellant and whether the findings recorded in the impugned order are legally sustainable in the facts and circumstances of the case.

6.1 The undisputed facts of the case are that the appellant had imported goods and paid customs duty, part of which was discharged through MEIS scrips, consequent to enhancement of value by the department. Subsequently, the said enhancement of value was set aside by the Hon'ble CESTAT, Ahmedabad, and the department has accepted the said order. Accordingly, the Bills of Entry were re-assessed, resulting in excess payment of duty by the appellant.

6.2 The primary issue for determination is whether the appellant is entitled to refund of such excess duty in cash or legally valid mode, or whether the same is required to be re-credited through MEIS scrips as held by the adjudicating authority.

6.3 I find that once the assessment has been set aside by the appellate authority and the same has been accepted by the department, the duty collected in excess loses its authority of law. In terms of Article 265 of the Constitution of India, no tax can be levied or collected except by authority of law. Further, retention of such amount by the department would also be violative of Article 300A, which protects the right to property. Therefore, the excess duty collected is required to be refunded to the appellant.

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6.4 I further find that the adjudicating authority has erred in holding that the appellant should approach DGFT for re-credit of MEIS scrips. Once the duty has been paid at the time of import, even through scrips, the same stands appropriated as revenue by the Customs Department. The mode of payment, whether in cash or through scrips, does not alter the character of duty paid. Therefore, in the event of refund arising due to reassessment or appellate order, the Customs authorities are duty bound to grant refund under Section 27 of the Customs Act, 1962.

6.5 The reliance placed by the adjudicating authority on Para 3.11.6 of the Handbook of Procedures is misplaced, as the said provision pertains to re-export of defective goods and revalidation of scrips, which is not the issue involved in the present case. Further, the MEIS scheme itself stands discontinued and the licences used by the appellant have already expired. In such circumstances, directing re-credit in a non-operational and expired scheme would render the relief granted by the Hon'ble CESTAT illusory and ineffective.

6.6 I also find merit in the contention of the appellant that refund of duty paid through scrips cannot be denied merely on the ground that there is no explicit provision for cash refund. The refund must be granted in a manner that effectively restitutes the appellant to the position prior to such excess payment. Any contrary interpretation would result in unjust enrichment of the State. In this regard, reliance is placed on the judgment of the Hon'ble Supreme Court in *Union of India v. Tata Chemicals Ltd.*, wherein it has been held that amounts collected without authority of law must be refunded with interest, and the State cannot retain such amounts unjustly. Further, I find that the approach of the adjudicating authority in shifting the responsibility to DGFT is legally untenable, as DGFT has no role in sanction of refund under the Customs Act. The obligation to refund duty arises squarely on the Customs authorities once the assessment is modified or set aside.

6.7 In view of the above discussion, I hold that the rejection of refund claim by the adjudicating authority is not sustainable in law. The appellant is entitled to refund of excess duty paid pursuant to the order of the Hon'ble CESTAT, and such refund is required to be granted in cash or through any legally valid mode, along with applicable interest as per law.

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7. In view of the foregoing discussion and findings, I hold that the impugned order passed by the adjudicating authority is not sustainable in law, as it has erroneously rejected the refund claim of the appellant on grounds which are not tenable. I find that the excess duty collected from the appellant, pursuant to enhancement of value which has subsequently been set aside by the Hon'ble CESTAT and accepted by the department, is liable to be refunded in terms of Section 27 of the Customs Act, 1962.

7.1 Accordingly, the impugned Order-in-Original No. 01/AC/ICD/IMP/REF/2025 dated 08.01.2025 is hereby set aside and the appeal filed by the appellant is allowed. The adjudicating authority is directed to grant refund of Rs. 93,512/- to the appellant in cash or through any legally permissible mode.

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

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F. No. S/49-303/CUS/AHD/2024-25

Date: 30.03.2026

By email (as per Section 153 of the Customs Act, 1962)

M/s. Meghmani Industries Limited , Unit-II,
Plot No. 27, Vatva GIDC Industrial Estate,
Phase-I, Vatva, Ahmedabad – 382445.

kalpesh@mil2.meghmanidyes.com

Copy to:

1.The Chief Commissioner of Customs Gujarat, Custom House, Ahmedabad. (email: ccoahm-guj@nic.in)
2.The Principal Commissioner of Customs, Custom House, Ahmedabad. (email: cus-ahmd-guj@nic.in rra-customsahd@gov.in)
3. The Additional Commissioner of Customs, In charge of ICD Khodiyarr, Ahmedabad (cus-ahmd-adj@gov.in)
4. The Assistant Commissioner of Customs, ICD- Khodiyaar, Ahmedabad (icdkhd-ahd@gov.in icd_ahd@yahoo.co.in)
5. Shri Manohar Maheswari, CA, Sr.Vice President, of M/s. Meghmani Industries Limited (manohar@meghmanidyes.com)
6.Guard File.