



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD,  
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DIN – 20250871MN0000552755

क्र	फ़ाइल संख्या FILE NO.	S/49-141/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-156-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	07.08.2025
ड	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order – In – Original No. 01/DC/REFUND/ICD-SND/2024-25 dated 06.06.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	07.08.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s HJM Metals LLP, 4, Harekrishna Bungalows, Opp. Jaimin Restaurant, Opp. Fatehpura Police Chowky, Paldi, Ahmedabad – 380 007



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 बी बी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहूत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते हैं।
	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :
(क)	बैगेज के रूप में आयातित कोई माल।
(a)	any goods imported on baggage
(ख)	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो।
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.
(ग)	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी।
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
3.	पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :
	The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :
(क)	कोर्ट फी एक्ट, 1870 के मद सं. 6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए।
(a)	4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870.
(ख)	सम्बद्ध दस्तावेजों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो।
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां।
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. 200/- (रुपए दो सौ मात्र) या रु. 1000/- (रुपए एक हजार मात्र), जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां। यदि शुल्क, मांगा गया व्याज, लगाया गया दंड की राशि और रुपए 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 आहूत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में



	सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं	
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :	
	सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	<b>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</b>
	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 रुपए 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 रुपए 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 रुपए 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)	इन आदेश के विरुद्ध अधिकरण के मामने, मांगे गए शुल्क के %10 अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के %10 अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा।	
(d)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.	
6.	उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.	
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal- (a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or (b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.	



**ORDER IN APPEAL**

M/s HJM Metals LLP, 4, Harekrishna Bungalows, Opp. Jaimin Restaurant, Opp. Fatehpura Police Chowky, Paldi, Ahmedabad – 380 007 (hereinafter referred to as 'the Appellant') have filed the present appeal challenging the Order – In – Original No. 01/DC/REFUND/ICD-SND/2024-25, dated 06.06.2024 (hereinafter referred to as 'the impugned order') passed by the Deputy Commissioner, Customs, ICD - Sanand, Ahmedabad (hereinafter referred to as 'adjudicating authority').

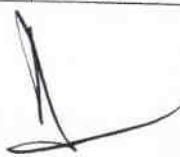
2. Facts of the case, in brief, are that the Appellant had filed the Bills of Entry, as per the Table – I and Table – II below (i.e. total 13 Bills of Entry) at ICD – Sanand for clearing of goods declared as "Lead Scrap Rails" (CTH No. 78020010) imported from their overseas supplier viz., M/s Trade Sea International PTE Limited, Singapore. The Appellant declared the value based on contract prices and invoices and had assessed the Bills of Entry under Section 17 (1) of the Customs Act, 1962. However, it was rejected and re-determined by enhancing the same on the basis of NIDB data on contemporaneous import of similar goods by the then Assistant Commissioner of Customs, ICD – Sanand.

2.1 Being aggrieved with the rejection of the declared value mentioned at Table – I below, i.e., for 5 Bills of Entry, the Appellant had preferred appeals before the Commissioner (Appeals), Customs, Ahmedabad, who vide Order-In-Appeal No. AHD-CUSTM-000-APP-542 to 546-19-20, dated 27.12.2019 remitted back the matter for denovo adjudication owing to the reason that initial OIOs were passed without following the principles of natural justice.

2.2 As per the denovo Order-In-Original No. 06/AC/ICD-SND/2019-20, dated 14.07.2020, after following the principle of natural justice, the then adjudicating authority had further upheld the rejection of the declared value under Rule 12 of the Customs Valuation Rules, 2007 read with Rule 3 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and re-determined the value of the imported goods and agreed with the enhancement value shown against each Bill of Entry under the provisions of Section 14 of the Customs Act, 1962 read with Rule 5 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, as per Table – I below:-

**TABLE - I**

Sr. No.	Bill of Entry No.	Bill of Entry Date	Declared Value in US \$ per Kgs.	Enhanced value in US \$ per Kgs.	Declared Value (Total in INR)	Assessed Value (Total in INR)
1.	2677421	02.04.2019	1.260	1.828	2284125.00	3287667.40
2.	2761500	08.04.2019	1.272	1.843	2292793.27	3291330.09
3.	2923648	20.04.2019	1.272	1.820	2231368.18	3173858.04
4.	3072601	02.05.2019	1.272	1.820	2281667.60	3264650.19
5.	3850478	28.06.2019	1.186	1.820	2309591.98	3505236.86




2.3 Being aggrieved with the rejection of the declared value mentioned at Table – II below, (i.e. for other 08 Bills of Entry), the Appellant had also preferred appeals before the Commissioner (Appeals), Customs, Ahmedabad, who vide Order-In-Appeal No. AHD-CUSTM-000-APP-352 TO 359-20-21, dated 26.10.2020 remitted back the matter for fresh adjudication owing to the reasons to ascertain facts, examination of records and submissions and for issuance of appropriate order under Section 17 (5) of the Customs Act, 1962.

2.4 As per the Order-In-Appeal No. 12/AC/ICD-SND/2020-21, dated 07.01.2021, after following the instructions of the first appellate authority, the then adjudicating authority had further upheld the rejection of the declared value under Rule 12 of the Customs Valuation Rules, 2007 read with Rule 3 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and re-determined the value of the imported goods and agreed with the enhancement value shown against each Bill of Entry under the provisions of Section 14 of the Customs Act, 1962 read with Rule 5 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007, as per the Table – II below:-

**TABLE - II**

Sr. No.	Bill of Entry No.	Bill of Entry Date	Declared Value in US \$ per Kgs.	Enhanced value in US \$ per Kgs.	Declared Value (Total in INR)	Assessed Value (Total in INR)
1.	4747040	03.09.2019	1.12	1.82	2169412.46	3525295.25
2.	4623585	24.08.2019	1.11	1.82	3226029.07	5289525.15
3.	5446708	25.10.2019	1.005	1.82	1093623.86	1793149.03
4.	5432169	24.10.2019	1.221	1.82	9752725.72	17658841.20
5.	5165859	04.10.2019	1.12	1.82	1725077.70	2547924.00
					1978179.84	3214542.24
6.	5472487	29.10.2019	1.075	1.82	265405.80	431284.42
7.	5724460	18.11.2019	1.005	1.82	2217452.00	3711625.49
8.	6234878	26.12.2019	1.1	1.82	3915299.23	7089264.00

2.5 The Appellant had not accepted the enhanced value and had filed appeal against both the said OIOs, i.e., against Order-In-Original No. 06/AC/ICD-SND/2019-20, dated 14.07.2020 and No. 12/AC/ICD-SND/2020-21, dated 07.01.2021, before the Commissioner (Appeals), Customs, Ahmedabad which were decided vide OIA No. AHD-CUST-000-APP-937-21-22, dated 08.10.2021 and OIA No. AHD-CUSTM-000-APP-04-22-23, dated 12.04.2022 respectively by the Commissioner (Appeals), Customs, Ahmedabad rejecting the appeals filed by the Appellant.

2.6 Against the said OIAs, the Appellant had preferred an appeal before the CESTAT, Ahmedabad which was decided vide CESTAT Final Order No. A/10479-10480/2024, dated 23.02.2024 and passed the following order:-

“5. We find that the appellant has imported the goods at value ranging from 186 USD per KG to 1.272 USD per KG. The value has been loaded to 1.820



USD per KG to 1.843 USD per KG. The value has been loaded on the strength of the data reproduced in para 5 of the Order-in-Original.

From the Annexure - B, it is seen that it does not indicate the country of origin of the goods of the contemporaneous imports nor does it indicate the quantity imported in each bill of entry. In these circumstances, no comparison could have been made with the imports made by the appellant with this data. Contemporaneous import need to be compared not only w.r.t. description and time of import but also w.r.t. country of origin and quantity imported. **The rejection of declared assessable value and adoption of new assessable on the basis of this data cannot be sustained. The impugned order is therefore set aside and appeals are allowed.**"

2.7 Accordingly, the Appellant had filed the refund claim of Rs. 67,33,498/- along with requisite documents as mentioned in their said letter dated 04.03.2024, in pursuance to the excess duty paid by them as per the details mentioned at Table – III below:-

**TABLE - III**

Sr. No.	Bill of Entry No.	Bill of Entry Date	Duty payable as per declared value (In Rs.)	Duty paid as per enhanced value (In Rs.)	Excess Duty paid - liable for refund
W.r.t. OIO No. 06/AC/ICD-SND/2019-20, dated 14.07.2020					
1.	2677421	02.04.2019	559382	805150	245768
2.	2761500	08.04.2019	561505	806047	244542
3.	2923648	20.04.2019	546462	777278	230816
4.	3072601	02.05.2019	558780	799513	240732
5.	3850478	28.06.2019	565619	858433	292813
			<b>2791749</b>	<b>4046420</b>	<b>1254672</b>
W.r.t. OIO No. 12/AC/ICD-SND/2019-20, dated 07.01.2021					
1.	4747040	03.09.2019	411971	863345	451374
2.	4623585	24.08.2019	612623	1734547	1121924
3.	5446708	25.10.2019	2388443	4324650	1936208
4.	5432169	24.10.2019	422472	623987	201515
5.	5165859	04.10.2019	440960	716063	275103
6.	5472487	29.10.2019	543054	908977	365923
7.	5724460	18.11.2019	958857	1736161	777305
8.	6234878	26.12.2019	533920	883395	349475
			<b>6312299</b>	<b>11791124</b>	<b>5478826</b>

2.8 Further, during the preliminary scrutiny of the refund claim, the adjudicating authority has held that the Appellant was entitled for the refund of excess duty payment of Rs. 13,32,754/- paid by them in respect of the subject 13 Bills of Entry as per the details mentioned at Para 12 of the impugned order. Accordingly, the adjudicating authority vide the impugned order has sanctioned refund of Rs. 13,32,754/- being the differential duty payment made by the Appellant.

3. Being aggrieved with the impugned order passed by the Adjudicating Authority, the Appellant have filed present appeal. The Appellant have, *inter-alia*, submitted detailed submissions on following points in support of their contentions:



- They had requested vide letter dated 04.03.2024, along with CESTAT's Order to release the amount of excess Customs duty collected at the time of filing the Bills of Entry, and they had paid under protest. The adjudicating authority sanctioned only the duty portion, but did not consider the sanction of interest, and have not even discussed any reasons for not giving the refund of interest;
- The interest payable to them is worked out as under:-

Appeal No. C/10330/2022						
No.	BE No.	Date of Duty paid challan	Differential Excess paid and refunded	Date of refund OIO	Delay in Days	Interest @ 6% upto 31.10.2023
1.	4747040	03.09.2019	74574	06.06.2024	1738	21306
2.	4623585	24.08.2019	151966	06.06.2024	1748	43666
3.	5446708	25.10.2019	434836	06.06.2024	1686	120515
4.	5165859	24.10.2019	45257	06.06.2024	1687	12550
5.	5165859	04.10.2019	9113	06.06.2024	1707	2557
6.	5472487	29.10.2019	82180	06.06.2024	1682	22722
7.	5724460	18.11.2019	174568	06.06.2024	1662	47693
8.	6234878	26.12.2019	78485	06.06.2024	1624	20952
Total			1050979			291962
Appeal No. C/10006/2022						
1.	2677421	02.04.2019	55195	06.06.2024	1892	17166
2.	2761500	08.04.2019	54920	06.06.2024	1886	17027
3.	2923648	20.04.2019	51837	06.06.2024	1874	15969
4.	3072601	02.05.2019	54064	06.06.2024	1862	16548
5.	3850478	28.06.2019	65760	06.06.2024	1805	19512
Total			281776			86222
G. Total			1332755			378184

- It is settled law that once the Appellant / Assessee is eligible for refund of pre-deposit / excess paid duty under protest, then for the period of delay, the Assessee / Appellant is also eligible for interest @ 6%, after three months from the date of payment, till the date of actual payment of refund amount;
- They referred the Section 27 A of the Customs Act, 1962 in support of their claim;
- The issue is no more *res integra*, and also placed reliance on the following judgments and settled law positions, wherein it is held that, the interest shall be payable after three months from the date of actual payment. Therefore, they are legally entitled for the interest after expiry of three months from the date of payment of excess duty till the date of actual payment;

- i. *M/s. Ranbaxy Laboratory Ltd. – 2011 (273) ELT 3 (S.C.);*
- ii. *Manish Pharmo Plast Pvt. Ltd. – 2020 (374) ELT 145 (SC);*
- iii. *Tata Chemicals Ltd. – 2016 (334) ELT A53 (Guj.);*
- iv. *CC vs. Khanna Paper Mills Ltd. – 2024 (7) TMI 1411 – CESTAT, Chandigarh;*
- v. *Saraswati Knitwear Pvt. Ltd. vs. CC – 2024 (5) TMI 530 – CESTAT, New Delhi;*
- vi. *Ajay Industrial Corporation Ltd. vs. AC – 2024 (3) TMI 997 – Bombay High Court;*



PERSONAL HEARING:

4. Personal hearing in the matter was held on 24.06.2025. Shri R. Subramanya, Advocate, appeared for hearing on behalf of the Appellant. He had reiterated the submissions made at the time of filing of appeal.

DISCUSSION & FINDINGS:-

5. I have carefully gone through the appeal memorandum as well as records of the case and the submissions made on behalf of the Appellant during the course of hearing. The issue to be decided in the present appeal is whether the impugned order passed by the adjudicating authority not sanctioning interest on refund of differential duty payment, in the facts and circumstances of the case, is legal and proper or otherwise.

5.1 The Appellant has filed the present appeal on 06.08.2024. In the Form C.A.-1, the date of communication of the impugned Order-In-Original dated 06.06.2024 has been shown as 11.06.2024. Thus, the appeal has been filed within normal period of 60 days, as stipulated under Section 128(1) of the Customs Act, 1962. As the appeal has been filed against rejection of interest on the refund of differential duty payment and no demand has been raised vide the impugned order, pre-deposit under the provisions of Section 129 E of the Customs Act, 1962 is not required. As the appeal has been filed within the stipulated time-limit, it has been admitted and being taken up for disposal on merits.

6. It is observed that the adjudicating authority has vide the impugned order sanctioned the refund of the differential duty payment made by the Appellant. It is further observed that the Appellant in their appeal memorandum have contended that it is settled law that the interest shall be payable after three months from the date of payment till the date of actual payment. However, on perusal of the impugned order, it is observed that there is no discussion on the issue of interest on the refund sanctioned being differential duty payment made by the Appellant. It is also not clear whether the Appellant had claimed interest in their application for refund. Hence, it appears from the records that the Appellant has claimed the interest on refund for the first time in the present appeal. I find that the adjudicating authority had no opportunity to decide the issue of claim of interest on refund by the Appellant. Moreover, the appeal was sent to the adjudicating authority for his comments on the grounds raised in the appeal, however, no response has been received. Hence, I find it appropriate to remand back the matter to the adjudicating authority for examining the Appellant's claim of interest made in the present appeal.

7. In view of the above, I find remitting the present appeal to adjudicating authority for passing fresh order, after examining the submissions made by the Appellant regarding interest on the differential duty payment made by them, has become sine qua

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non to meet the ends of justice. Accordingly, the case is remanded back to the adjudicating authority, in terms of sub- section 3 (b) of Section 128A of the Customs Act, 1962, for passing a fresh order by following the principles of natural justice. In this regard, I also rely upon the judgment of Hon'ble High Court of Gujarat in case of Medico Labs- 2004 (173) ELT 117 (Guj.), Judgment of Hon'ble Bombay High Court in case of Ganesh Benzoplast Ltd. [2020 (374) E.L.T. 552 (Bom.)] and Judgments of Hon'ble Tribunals in case of Prem Steels Pvt. Ltd. [2012-TIOL-1317-CESTAT-DEL] and Hawkins Cookers Ltd. [2012 (284) E.L.T. 677 (Tri.-Del)] holding that Commissioner (Appeals) has power to remand the case under Section – 35A (3) of the Central Excise Act, 1944 and Section – 128A (3) of the Customs Act, 1962.

8. In view of above, I set aside the impugned order and allow the appeal filed by the Appellant by way of remand to the adjudicating authority for passing fresh order after considering the submissions made by the Appellant in the present appeal on record. The Adjudicating Authority shall examine the available facts, documents, submissions and issue speaking order afresh following principles of natural justice and legal provisions.

9. The appeal preferred by the Appellant is allowed by way of remand.



F. No. S/49-141/CUS/AHD/24-25

By Registered post A.D  
To,

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सत्यापित/ATTTESTED

अधीक्षक/SUPERINTENDENT  
सीमा शुल्क (अपील्स), अहमदाबाद  
CUSTOMS (APPEALS), AHMEDABAD

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

Date: 07.08.2025

M/s HJM Metals LLP,  
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Copy to:

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.
2. The Principal Commissioner of Customs, Custom House, Ahmedabad.
3. The Deputy Commissioner, Customs, ICD – Sanand, Ahmedabad.
4. Guard File.

