



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD,  
चौथी मंज़िल 4th Floor, हड्डो भवन HUDCO Bhawan, ईश्वर भुवन रोड Ishwar Bhuvan Road  
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009  
दूरभाष क्रमांक Tel. No. 079-26589281

DIN – 20250471MN0000217724

क	फ़ाइल संख्या FILE NO.	CAAPL/COM/CUSP/1057/2023-APPEAL (S/49-217/CUS/AHD/23-24)
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-020-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	28.04.2025
इ	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	17/DC/ACC/OIO/VRL Logistics/2023-24, dated 23.06.2023
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	28.04.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s VRL Logistics Ltd., Giriraj Annexe, Circuit House Road, Hubballi, Karnataka – 580 029



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 (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.
	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 ब्याज, 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 आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म 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 :	
	<p>सीमाशुल्क, केंद्रीय उत्पाद शुल्क व सेवा कर. अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ</p> <p>दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016</p>	<b>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</b>
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	
(ब)	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)	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

M/s VRL Logistics Ltd., Giriraj Annexe, Circuit House Road, Hubballi, Karnataka – 580 029 (hereinafter referred to as 'the Appellant') have filed the present appeal challenging the Order-In-Original No. 17/DC/ACC/OIO/VRL Logistics/2023-24, dated 23.06.2023 (hereinafter referred to as 'the impugned order') passed by Deputy Commissioner of Customs, Air Cargo Complex, Ahmedabad (hereinafter referred to as 'the adjudicating authority').

2. Facts of the case, in brief, are that the Appellant had filed refund claim for Rs. 6,88,05,345/- as deposited during investigation regarding import of an Aircraft at Ahmedabad vide their letter dated 26.05.2023 (received on 30.05.2023) with reference to the CESTAT Order No. A/11057-11072/2023, dated 28.04.2023 passed by Hon'ble CESTAT, Ahmedabad.

2.1 The Appellant had filed a Bill of Entry No. 16/07-08, dated 05.01.2008 with Air Cargo Complex, Customs, Ahmedabad for clearance of an Aircraft (Premier 1A Model 390 Sl. No. RB-219, Registration No. VT-V.R.L.) and had claimed exemption from duty under Notification No. 21/2002-Cus, dated 01.03.2002, as amended on 15.09.2008. The said Aircraft valued at Rs. 25,46,97,658/- involving Custom duty of Rs.6,30,97,208/- was placed under seizure by alleging breach of the condition set out in the Notification. Further, as requested by the Appellant for provisional release, the Appellant was allowed for Provisional Release of the Aircraft on execution of Bond for full value of the Aircraft along with Cash deposit / Security/ Bank Guarantee for 25% of the Bond Value and paid cash deposit of Rs. 6,37,00,000/- (25% of Bond Value) vide manual Challan No. 1/MISC/2008, dated 16.09.2008, which was inclusive of duty amounting to Rs. 6,30,97,208/-. Further, the Appellant had made a further deposit of Rs.51,05,345/- under Challan No. 02/Misc/2008, and No. 03/Misc/2008 both dated 29.09.2008 towards interest. Hence, the total amount deposited during investigation towards duty and interest was Rs. 6,88,05,345/-. On completion of investigation, a Show Cause Notice from F. No. VIII/48-04/Cus/SIIB/08, dated 02.03.2009 was issued to the Appellant demanding duty amounting to Rs.6,30,97,208/- along with interest. Further, the Show Cause Notice was adjudicated by the then Commissioner of Customs Ahmedabad vide Order-in-Original No. 06/Commr/SIIB/2009, dated 27.11.2009 whereby the demand was confirmed and the amount of Rs. 6,88,05,345/- already deposited by them towards duty and interest was appropriated. In this regard, the Appellant had filed an appeal against the said order of Commissioner before the Hon'ble CESTAT, Ahmedabad. Further, Hon'ble CESTAT, Ahmedabad, passed Final Order No. A/11057-11072/2023, dated 28.04.2023 whereby it was mentioned that the Appellant was legally eligible for exemption notification and the impugned order was set aside. Accordingly, the Appellant had filed refund claim on



26/05/2023 (received on 30/05/2023) for Rs. 6,88,05,345/- as deposited during investigation.

2.2 In support of claim, the Appellant had submitted the requisite documents. The jurisdictional office had written a letter dated 08.06.2023 to PAO, Ahmedabad for verification of deposit of Rs. 6,88,05,345/- through manual Challan No. 1/MISC/2008 dated 16.09.2008, and Challan No. 02/Misc/2008, and No. 03/Misc/2008, both dated 29.09.2008 for confirming whether the amount of deposit claimed to be paid by the Appellant had been transferred to the Govt. account or otherwise and another letter dated 08.06.2023 to RRA section, H.Q, Customs Ahmedabad for confirming whether the said Hon'ble CESTAT, Ahmedabad Order dated 28.04.2023 had been accepted by the competent authority or otherwise.

2.3 In view of the above Hon'ble CESTAT, Ahmedabad Order No. A/11057 – 11072/2023, dated 28.04.2023, the adjudicating authority vide the impugned order has sanctioned the refund claim of deposit of Rs. 6,88,05,345/- under the Customs Act, 1962.

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:

➤ Since admittedly the amount deposited was during investigation, it was never duty of customs. The fact that the amount was deposited during investigation has been accepted in the impugned order;

➤ It is settled law that the interest is payable where the amount is deposited during Investigation. They relied upon the following cases in support of their claim:

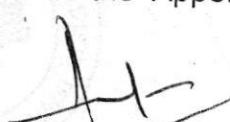


- i. 2011 (9) TMI 903 Madras High Court – Commissioner of C. EX., Chennai-II vs. Ucal Fuel Systems Ltd.;
- ii. 2018 (360) ELT 1005 (Tri. - All.) Parle Agro Pvt. Ltd.;
- iii. 2017 (12) TMI 701 – CESTAT, Ahmedabad – Futura Ceramics Pvt. Ltd.;
- iv. 2022 (8) TMI 102 – CESTAT, New Delhi – Safal Food Products Pvt. Ltd.;
- v. 2021 (376) ELT 615 (Mad.) – Daily Thanthi;
- vi. 2019 (367) ELT 670 (Tri. Hyd.) – Maithan Ceramics Ltd.;

➤ In view of settled legal position, interest may be allowed with consequential relief;

#### PERSONAL HEARING:

4. Personal hearing in the matter was held on 10.03.2025. Shri S. J. Vyas, Advocate, appeared for hearing on behalf of the Appellant. He had reiterated the



submissions made at the time of filing of appeal. Due to change of the Appellate Authority, personal hearing was again held on 23.04.2025. Shri S. J. Vyas, Advocate, appeared for hearing. He reiterated the submissions made in the appeal memorandum.

#### **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 claim of deposit, in the facts and circumstances of the case, is legal and proper or otherwise.

6. It is observed that the adjudicating authority has vide the impugned order sanctioned the refund of the total amount deposited during the investigation by the Appellant. It is further observed that the Appellant in their appeal memorandum have contended that it is settled law that the interest is payable where the amount is deposited during the investigation and accordingly, the interest may be allowed to them. However, on perusal of the impugned order, it is observed that there is no discussion on the issue of interest on the refund of deposit sanctioned. 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 refund of deposit, has become sine qua non to meet the ends of justice. Accordingly, the case is remanded back to the adjudicating authority, in terms of sub-section (3) 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) E.L.T 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.

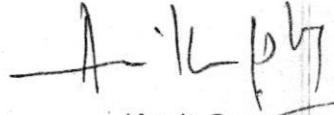
9. The appeal preferred by the Appellant is allowed by way of remand.



सत्यापित/ATTTESTED

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

F. No. CAAPL/COM/CUSP/1057/2023-APPEAL  
(S/49-217/CUS/AHD/23-24)

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

Date: 28.04.2025

By Registered post A.D

To,

M/s VRL Logistics Ltd.,  
Giriraj Annexe,  
Circuit House Road,  
Hubballi,  
Karnataka – 580 029

Shri S. J. Vyas, Advocate  
C 4, Jay Apartments,  
Opp. Azad Society,  
Ambawadi,  
Ahmedabad – 380 015

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, Air Cargo Complex, Ahmedabad.  
4. Guard File.

