



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-20260371MN0000616966

क	फ़ाइल संख्या FILE NO.	S/49-413/CUS/MUN/2024-25
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)	MUN-CUSTM-000-APP-908-25-26
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.	Order-in-Original no. MCH/ADC/AK/88/24-25 dated 08.07.2024
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:	Shri Mahefuzkhan Mahammad Yunus Malek, Proprietor of M/s Gajwani Global. Bunder Road, Mundra-B, 2/2/2/96/63, Behind Hospital, Mundra, Kutch, Gujarat-370421.



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.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :
(क)	बैगेज के रूप में आयातित कोई माल.
(a)	any goods exported
(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 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 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
	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016
	2 nd 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 रूपए.
(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 रूपए
(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 ;
(घ)	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 रूपए.
	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

The present appeal has been filed by Shri Mahefuzkhan Mahammad Yunus Malek, Proprietor of M/s. Gajwani Global, Mundra (hereinafter referred to as the "appellant") under Section 128 of the Customs Act, 1962, challenging Order-in-Original No. MCH/ADC/AK/88/24-25 dated 08.07.2024 passed by the Additional Commissioner of Customs, Mundra.

2.1 The facts of the case, in brief, are that the appellant filed Bill of Entry No. 5790448 dated 04.05.2023 through their Customs Broker for import of goods declared as "parts and accessories of printing machine," classifiable under CTH 84439990 of the Customs Tariff Act, 1975, with a declared assessable value of Rs. 6,30,473/-. The goods were imported from M/s. Electronic Way Trading LLC, Dubai (UAE), and duty amounting to Rs. 1,74,863/- (including IGST) was assessed.

2.2 On the basis of an alert issued by NCTC indicating risk of mis-declaration, IPR violation and non-compliance with BIS requirements, the consignment was put on hold and subjected to detailed examination under panchnama dated 15.05.2023 by SIIB officers in the presence of concerned representatives.

2.3 Upon examination, the goods were found to be old and used parts/accessories of photocopier machines instead of the declared printing machine parts. Further, undeclared items in the nature of hard disk drives of varying storage capacities and of different countries of origin were also found concealed within the consignments. The goods were observed to be old and used in nature.

2.4 In view of the above, the goods appeared to be mis-declared in terms of description, quantity and country of origin. Further, being old and used goods, the same were considered as restricted/prohibited for import under the Foreign Trade Policy (2015-20) and the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016. The empanelled Chartered Engineer, vide report dated 08.12.2023, also certified that the goods were old and used and not reconditioned.

2.5 Accordingly, the goods were seized vide Seizure Memo dated 24.06.2023 under Section 110(1) of the Customs Act, 1962 on the reasonable belief that they



were liable for confiscation under Sections 111(d) and 111(m) of the Act. Further investigation revealed that the declared premises of the importer did not exist.

2.6 Summons were issued to the appellant under Section 108 of the Customs Act, 1962 on multiple occasions; however, the appellant neither appeared nor submitted any response. Similarly, summons issued to the Customs Broker also remained uncomplished with, and the matter was reported to the concerned authority for appropriate action.

2.7 In view of non-cooperation by the appellant and discrepancies noticed during examination, the declared transaction value was rejected under Rule 12 of the Customs Valuation Rules, 2007 and the assessable value was re-determined at Rs. 13,09,114/-, with corresponding duty of Rs. 3,63,083/-.

2.8 Thereafter, a Show Cause Notice was issued proposing imposition of penalty under Section 112(a) of the Customs Act, 1962 for rendering the goods liable to confiscation and under Section 117 for failure to comply with summons issued under Section 108 of the Act.

2.9 The adjudicating authority, after due adjudication, passed the impugned order wherein penalty under Section 112(a) was not imposed. However, a penalty of Rs. 2,50,000/- was imposed on the appellant under Section 117 of the Customs Act, 1962 for non-compliance with statutory summons.

SUBMISSIONS OF THE APPELLANT:

3. Being aggrieved with the impugned order, the Appellant has filed the present appeal against the order passed by the Additional Commissioner, Customs, Mundra. The Grounds of Appeal are not reproduced in detail for sake of brevity, as the copy of the same is available with the Appellant as well as Respondent. However, the same have been examined and the brief is as under:

The appellant contends that the impugned order is legally flawed because the Adjudicating Authority failed to consider submissions made in response to the Show Cause Notice. Furthermore, the appellant challenges the Authority's claim that they waived their right to a Show Cause Notice and personal hearing, asserting that no such waiver was contained in their correspondence. This exclusion is presented as a clear violation of the principles of natural justice and established judicial precedents.

3.2 The appeal disputes the absolute confiscation of goods under



Section 111(d), arguing that the items are "old and unused" parts and accessories rather than "second-hand" restricted goods. The appellant highlights that under paragraph 2.31 of the Foreign Trade Policy (FTP), such goods are categorized as restricted rather than prohibited. Since the goods are unused with a 100% residual life, the appellant maintains they should be considered freely importable and not liable for confiscation.

3.3 The appellant argues that the goods were wrongly classified as "used electrical and electronic assemblies" under the Hazardous and Other Waste Rules, 2016. They point out that the Panchnama and the Chartered Engineer's report fail to confirm the items are "assemblies," which typically consist of multiple components formed into a final unit. Furthermore, the appellant asserts that even if the goods fell under the specified Schedule III (Basel B1110), they would not require prior informed consent for import.

3.4 Without prejudice to other arguments, the appellant submits that even if the goods are deemed restricted, they should not be subject to absolute confiscation. Citing various judicial findings, including the Gujarat High Court case of M/s Oil Energy, the appellant argues that restricted (as opposed to prohibited) goods must be released upon the payment of a redemption fine under Section 125 of the Customs Act.

3.5 The appellant challenges the re-determination of the goods' value based on a Chartered Engineer's report. They argue that the Adjudicating Authority failed to follow the sequential application of the Customs Valuation Rules, 2007, and did not properly reject the transaction value under Rule 12 before moving to Rule 7. Because the proper legal procedure for doubting and determining value was ignored, the appellant contends the goods are not liable for confiscation under Section 111(m).

3.6 Finally, the appellant disputes the penalty of ₹2,50,000 imposed under Section 117 for allegedly failing to appear in response to summons. The appeal maintains that since the goods are not liable for confiscation under Sections 111(d) or 111(m) and no "improper importation" occurred, there is no legal basis for imposing penalties under Section 112 or Section 117.

PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 10.12.2025 following the principles of natural justice wherein Shri Vishal Ajay Kumar, Consultant, appeared for the hearing and re-iterated the submissions made at the time of filing the appeal.

DISCUSSION AND FINDINGS:

5. I have carefully gone through the case records, impugned order passed by the Additional Commissioner, Customs, Mundra and the defense put forth by the Appellant in their appeal.

5.1 The Appellant's primary contention is that the goods are "unused" and were misidentified as "old and used." However, the Panchnama dated 15.05.2023, conducted in the presence of multiple witnesses and a Chartered Engineer, clearly records the physical condition of the goods as "old and used." Physical evidence documented during a search and seizure carries significantly higher evidentiary value than the after-thought claims of an importer.

5.2 The Appellant contends that the rejection of the transaction value was procedurally flawed under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. I find this contention to be legally unsustainable. Rule 12(1) empowers the proper officer to doubt the truth or accuracy of the declared value if there are reasonable grounds. In the present case, the "reason to doubt" was not based on mere suspicion but on concrete, documented findings of mis-declaration. The declaration of the goods as "new" when they were found to be "old and used," combined with the concealment of 390 units of Hard Disk Drives (HDDs) that were entirely omitted from the Bill of Entry, constitutes a fundamental breach of the "truth and accuracy" requirement under Section 14 of the Customs Act, 1962.

5.3 I find that when the very nature and description of the goods are found to be false, the "transaction value" as defined under Rule 3(1) of the CVR, 2007 ceases to be the "price actually paid or payable for the goods when sold for export to India." The transaction value is predicated on the assumption that the invoice reflects the actual goods being imported. When the physical inspection reveals that the actual goods differ fundamentally from the invoiced goods, the declared price no longer pertains to the goods found. Under such circumstances, the mandate of Rule 12 is naturally triggered, as the declared value lacks the necessary nexus with the actual imported cargo. The failure of the Appellant to respond meaningfully to the summons or provide any corroborative evidence to support the declared value further solidified the reasonable doubt, necessitating the rejection of the transaction value and the sequential application of valuation rules.



5.4 When mis-declaration is established, the transaction value loses its sanctity. In the case of Century Metal Recycling Pvt. Ltd. vs. Union of India 2019 (367) E.L.T. 3 (S.C.), while the court emphasized the sequence of valuation, it also acknowledged that mis-declaration of parameters like quality and description is a valid ground for rejection. The use of a Chartered Engineer's report for valuation under the residual method (Rule 9) is a standard and legally accepted practice when identical/similar goods' prices are unavailable.

5.5 The Appellant claims the goods are not "assemblies" under Basel No. B1110. This is a technical nuance intended to circumvent the Hazardous Waste Rules. The "Parts and Accessories" found are clearly "electrical and electronic assemblies/scrap" as defined under the E-Waste (Management) Rules, 2016.

5.6 Para 2.31 of the FTP explicitly restricts the import of second-hand capital goods. The Ministry of Environment, Forest and Climate Change (MoEFCC) requires prior permission for such imports to prevent India from becoming a dumping ground for global junk. The lack of such authorization makes the import "prohibited" in terms of Section 2(33) of the Customs Act. I rely on the decision in Commissioner of Customs vs. City Office Equipment [2019-VIL-196-MAD-CU], where the Tribunal upheld the confiscation of old and used photocopier parts imported without MoEFCC permission, categorizing them as restricted/prohibited.

5.7 The Appellant requests redemption under Section 125. However, Section 125 states that redemption is at the discretion of the officer for prohibited goods. When goods are imported in blatant violation of environmental and waste management laws, absolute confiscation is the appropriate remedy.

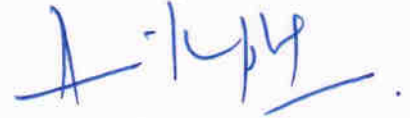
5.8 Regarding the violation of natural justice, the record shows that the Appellant themselves sent a letter on 07.03.2024 stating they take "full responsibility" and are "ready to pay fine and penalty." This admission of guilt effectively limits the scope of further inquiry into the facts, and the adjudicating authority's interpretation of this as a waiver is not entirely misplaced.

5.9 The investigation by the SIIB and the findings of the adjudicating authority clearly establish a case of calculated mis-declaration to bypass the Hazardous Waste Rules and the FTP. The importer's non-existence at the declared address further points toward a fraudulent intent. There is no merit in the appeal to justify any reduction in penalties or setting aside the absolute confiscation.



6. In view of the above discussions and findings, and in exercise of the powers conferred under Section 128A of the Customs Act, 1962, I pass the following order:

- I. The impugned Order-in-Original No. MCH/ADC/AK/88/24-25 dated 08.07.2024 is upheld in its entirety.
- II. The Appeal filed by Shri Mahefuzkhan Mahammad Yunus Malek is hereby dismissed.



(AMIT GUPTA)
Commissioner (Appeals),
Customs, Ahmedabad

F. No. S/49-413/CUS/MUN/2024-25
By Speed post A.D/E-Mail 248 10249

Date:30.03.2026

To,
Shri Mahefuzkhan Mahammad Yunus Malek,
Proprietor of M/s Gajwani Global,
Bunder Road, Mundra-B, 2/2/2/96/63,
Behind Hospital, Mundra,
Kutch, Gujarat-370421



Copy to:

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.
2. The Principal Commissioner of Customs, Custom House, Mundra.
3. The Additional Commissioner of Customs, Custom House, Mundra.
4. Guard File.