



सीमाशुल्क(अपील) आयुक्तकाकार्यालय,
 OFFICE OF THE COMMISSIONER OF CUSTOMS(APPEALS),अहमदाबाद AHMEDABAD,
 चौथीमंज़िल 4th Floor, हडको बिल्डिंगHUDCO Building, ईश्वर भुवन रोड़ IshwarBhuvan Road,
 नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009
 दूरभाषक्रमांक Tel. No. 079-26589281
DIN- 20260171MN000000E616

क	फ़ाइलसंख्या FILE NO.	S/49-137/CUS/MUN/2024-25
ख	अपीलआदेशसंख्या ORDER-IN- APPEAL NO. (सीमाशुल्कअधिनियम, 1962 की धारा 128कके अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	MUN-CUSTOM-000-APP-651-25-26
ग	पारितकर्ता PASSED BY	SHRI AMIT GUPTA Commissioner of Customs (Appeals), AHMEDABAD
घ	दिनांक DATE	21.01.2026
ङ	उदभूतअपीलआदेशकीसं. वदिनांक ARISING OUT OF ORDER-IN- ORIGINAL NO.	Bill of Entry No. : 4475886 dated 12.07.2024 passed by the Deputy Commissioner of Customs, (Import Gr.-I), MP&SEZ, Customs House, Mundra, Kutchh.
च	अपीलआदेशजारीकरनेकीदिनांक ORDER- IN-APPEAL ISSUED ON:	21.01.2026
छ	अपीलकर्ताकानामवपता NAME AND ADDRESS OF THE APPELLANT:	M/s. Trimex Industries Pvt Ltd., Trimex Towers No.01, Subbaraya Avenue, CP Ramaswamy Road Alwarpet, Chennai , Tamilnadu 600 018. Email: india@trimexgroup.com

1.	यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है।
	This copy is granted free of cost for the private use of the person to whom it is issued.
2.	सीमाशुल्क अधिनियम 1962 की धारा 129 डी डी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते हैं।
	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.
	खेत सम्बन्धित आदेश/Order relating to :
(क)	बैगेज के रूप में आयातित कोई माल।
(a)	any goods imported on baggage.
(ख)	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो।
(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 (यथासंशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्षके अधीन आता है में रु. 200/- (रूपए दो सौ मात्र) या रु.1000/- (रूपए एक हजार मात्र), जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की 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	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 हजार 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; पाँच हजार 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 ;	
(ग)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हजार रूपए.	
(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. Trimex Industries Pvt Ltd., Trimex Towers No.01, Subbaraya Avenue, CP Ramaswamy Road Alwarpet, Chennai , Tamilnadu 600 018 (hereinafter referred to as the 'appellant') have filed present appeal against the assessment of Bill of Entry 4475886 dated 12.07.2024 (hereinafter referred to as the 'impugned Bill of Entry') passed by the Deputy Commissioner of Customs, (Import Gr.-I), MP&SEZ, Customs House, Mundra, Kutchh (hereinafter referred to as the 'adjudicating authority'). The present appeal is filed in terms of Section 128 of the Customs Act, 1962.

2. Facts of the case, in brief, as per appeal memorandum, are that the appellant had imported the goods namely "Rutile 95 & 90" from China classifying the same under CTH 2614 0031. All relevant import documents, namely Commercial Invoice, Packing List, Certificate of Origin bearing Serial No. CCPIT627 01240091509 (Certificate No. 0124111627000021) dated 11.06.2024, along with Bill of Lading and Arrival Notice, were duly uploaded on the e-Sanchit portal at the time of filing the Bill of Entry. The Bill of Entry was duly processed & assessed and the applicable customs duty was paid . At the time of defacement of the original Certificate of Origin, the TSK Division raised a technical observation that Serial Number of the Certificate of Origin and Certificate Number was also required to be mentioned in the Bill of Entry. In view of the above observation, it was advised that the Bill of Entry be recalled and amended so as to incorporate both the Serial Number as well as the Certificate Number of the Certificate of Origin. The contention of the appellant was that it is technical and procedural issue and there is no intention to evade Government revenue. However, the Deputy Commissioner has imposed a penalty of Rs. 10,000/- and a fine of Rs. 1,000/- for the said procedural issue. The total amount of Rs. 11,000/- (Penalty Rs. 10,000/- + Fine Rs. 1,000/-) paid on 23.07.2024. Subsequently, the appellant, vide letters dated 23.08.2024 and 17.09.2024, requested the adjudicating authority to pass a speaking order explaining the reasons for imposition of fine and penalty.

3. Being aggrieved with the assessment of impugned Bill of Entry the appellant have filed the present appeal. In their grounds of appeal they have contended as under :

- *That the applicant have imported Rutile 95 and 90 from China. The relevant documents (Invoice/Packing List and Certificate of Origin Sr.No.CCPIT627 01240091509 (Certificate No. 0124111627000021) dt.11.06.2024 alongwith*

other shipment documents such as Bill of Lading and arrival notice from contr. Line etc. were submitted on e.sanchit. The B/entry No.4475886/12.07.2024 was processed.

- That the Bill of Entry was assessed under Notification No.011/2021 (17). The duty payment was arranged. That while allowing deface of original certificate of origin a technical issue was raised by the TSK Dvn. That instead Serial No. (CCIPT627 01240091509) certificate No. (0124111627000021), are to be recorded on Bill of entry, hence the Bill of entry is to be re-called and in addition to Serial No. Certificate Nos. also to be recorded.
- That Sir, accordingly request was made to avoid future awkwardness to the department. That Sir, it is in fact no mistake or any efforts to evade revenue, but same is a technical error if same is to be taken as a mistake.
- That the fact remains that at TSK section till date have accepted such certificate availing CARATOR benefits with Sear Nos., such issue of additional requirement was not raised and benefits admissible to the trade were given. This is maiden issue raised by the desk compelling to undergo exercise of re-call of bill of entry and record certificate nos, in addition to Serial Nos. Sir, no doubt it is department right but same is not an intentional mistake to earn any benefit. Your good offices will appreciate on e.sanchit documents were submitted, hence if at-all it is necessary, the department can also make such addition of Certificate Nos.
- That this expectation from department is not as a matter of right, but in the larger interest of ease of doing business with Customs authorities, trade expect such assistance.
- That your good offices will appreciate the action of levy of fine and penalty for such additional information, which is already available on records, is harsh actions against us, for which justice is prayed.
- That the Deputy Commissioner have imposed penalty (Rs.10000.00) and fine (Rs.1000/-) for same. That your good offices will appreciate that the mistake is not intentional but applicant has worked as per procedure followed by section for Serial Nos. of the documents in such cases.



- That your good offices will concur with us that Hon'ble Supreme Court have opined that for technical flow/mistake even a panny as penalty is not justified and need not be imposed (Hindustan Lever case). Hon'ble Supreme Court in the land mark case of Messrs Hindustan Steel Limited reported in 1978 ELT (J159) wherein the Hon'ble Supreme Court has held that penalty should not be imposed merely because it was lawful to do so. The Apex Court has further held that only in cases where it was proved that the person was guilty to conduct contumacious or dishonest and the error committed by the person was not bonafide but was with a knowledge that the person was required to act otherwise, penalty might be imposed. It is held by the Hon'ble Supreme Court that in other cases where there were only irregularities or contravention flowing from a bonafide belief, even a token penalty would not be justified.
- That there are various decisions which provides that penalty and fine need be imposed without judicious consideration and without according fair opportunities to the individual. Here in present case without notice and/or knowledge of the applicant fine and penalty was imposed/recovered. Hence in the interest of natural justice we pray that orders may kindly be issued for refund of penalty Rs.10000.00 and fine Rs.1000.00, which are not just and fair action of the authority.
- That despite request (dt.23.08.2024), speaking order is not issued.

PERSONAL HEARING

4. The appellant was given personal hearings on 03.07.2025, 07.08.2025, 16.10.2025, and 27.10.2025, in accordance with the principles of natural justice. However, despite being afforded multiple opportunities of personal hearing, the appellant neither appeared for the hearings nor submitted any explanation or request for adjournment for non-appearance.

DISCUSSION AND FINDINGS

5. Before going into the merits of the case, I find that as per appeal memorandum present appeal have been filed within statutory time limit of 60 days prescribed under Section 128(1) of the Customs Act, 1962. This appeal has been filed against an assessed Bill of Entry, and since the appellant has already paid the customs



duty, fine, and penalty, the pre-deposit requirement under Section 129E of the Customs Act, 1962 has been fulfilled.

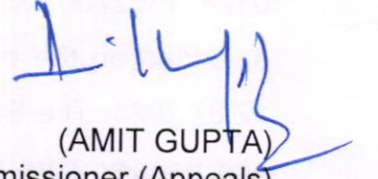
5.1 The main issue is to be decided in the present appeal is whether the adjudicating authority was justified in imposing the fine and penalty on the appellant in the facts and circumstances of the case, and whether such action is legal and proper.

5.2 The appellant had imported Rutile 95 and Rutile 90 from China under CTH 2614 00 31. All relevant import documents, including the Commercial Invoice, Packing List, Certificate of Origin (Serial No. CCPIT627 01240091509, Certificate No. 0124111627000021 dated 11.06.2024), Bill of Lading, and Arrival Notice, were uploaded on the e-Sanchit portal at the time of filing Bill of Entry No. 4475886 dated 12.07.2024. The Bill of Entry was duly assessed and the applicable customs duty, fine, and penalty were paid. A technical observation was subsequently raised by the TSK Division regarding the recording of the Serial Number and Certificate Number in the Bill of Entry. The appellant contended that this was a purely technical and procedural issue, with no intention to evade duty. However, the Deputy Commissioner imposed a penalty of Rs. 10,000/- and a fine of Rs. 1,000/- for the said procedural/technical issue without providing an opportunity of being heard. The appellant, vide letters dated 23.08.2024 and 17.09.2024, requested the adjudicating authority to pass a speaking order explaining the reasons for the imposition of the fine and penalty; however, no such speaking order has been issued.

5.3 It is observed that the fine and penalty were imposed on the appellant without affording any opportunity of personal hearing. It is also noted that the appellant had requested the adjudicating authority to pass a speaking order explaining the reasons for imposing the fine and penalty. However, no such speaking order has been issued. Consequently, the complete facts are not available on record to verify the claims made by the appellant. Copies of the appeal memorandum were also sent to the jurisdictional officer for comments on 13.11.2024, but no response has been received from the jurisdictional office. Therefore, I find that remitting the case to the proper officer for passing speaking orders in each case becomes sine qua non to meet the ends of justice. It is also imperative that the appellant be afforded an opportunity of personal hearing before passing the order. Accordingly, the case is required to be remanded back, in terms of sub-section (3) of Section 128A of the Customs Act, 1962, for passing speaking order by the proper officer under Section 17(5) of the Customs Act, 1962 by

following the principles of natural justice. While passing the speaking order, the proper officer shall also consider the submissions made in present appeals on merits. 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 P. Ltd. [2012-TIOL-1317-CESTAT-DEL] and the case of Hawkins Cookers Ltd. [2012 (284) E.L.T. 677(Tri. – Del)] wherein it was held 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.

6. Accordingly, the present appeal filed by the appellant are allowed by way of remand.



(AMIT GUPTA)
Commissioner (Appeals)
Customs, Ahmedabad

F.No.: S/49-137/CUS/MUN/2024-25

Dt.: 21.01.2026

Through Speed Post:

To,
M/s. Trimex Industries Pvt Ltd.,
Trimex Towers No.01,
Subbaraya Avenue,
CP Ramaswamy Road Alwarpet,
Chennai , Tamilnadu 600 018.

Email: india@trimexgroup.com

Copy to :-

1. The Chief Commissioner of Customs, Ahmedabad zone, Customs House, Ahmedabad.
2. The Pr. Commissioner of Customs, Customs House, Mundra
3. The Deputy/Assistant Commissioner of Customs, Customs House, Mundra.
4. Guard File.

