



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 - 20251271MN000000BDBA

क	फ़ाइल संख्या FILE NO.	S/49-201/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- 624 -25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	26.12.2025
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN- ORIGINAL NO.	Order-in-Original no. MCH/336/TD/AC/MCD/2024-25 dated 12.08.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	26.12.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s Wan Hai Lines India Pvt Ltd Office no. 1 & 2, MDS Enclave 2nd floor, Plot no. 311, Ward no. 12B, Near LIC Building Gandhidham- 370201



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)	बैगेज़ 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 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/- (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
	<b>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</b>
	दूसरी मंज़िल, 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 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; पाँच 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 ;
(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 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 है, 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.



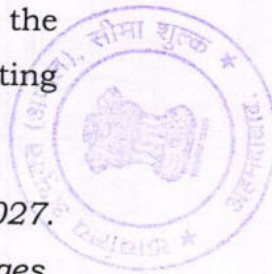
**ORDER-IN-APPEAL**

The present appeal has been filed by M/s Wan Hai Lines India Pvt Ltd, Office no. 1 & 2, MDS Enclave, 2nd floor, Plot no. 311, Ward no. 12B, Near LIC Building, Gandhidham - 370201, (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original nos. MCH/336/TD/AC/MCD/2024-25 dated 12.08.2024 (hereinafter referred to as 'the impugned order') issued by the Assistant Commissioner, Customs, Mundra.

2. Facts of the case, in brief, are that the Importer M/s. Aryavarta International having IEC No. ABRFA4532D had imported goods declared as Plastic Regrind under CTH 3904 under BL No. 010EW08399 dated 03.02.2024 through container No. WHSU6572993 for which the said importer had filed Bill of Entry No. 2577514 dated 15.03.2024 through their authorized Customs Broker M/s. VR Logistics for clearance the of the said goods. M/s. V R Logistics, Customs Broker on behalf their Importer M/s. Aryavarta International, has filed a complaint through Email dated 21.03.2024 against shipping line M/s Wan Hai Line (India) Pvt. Ltd and requested the Commissioner of Customs, Mundra Customs, to take necessary action against the shipping line M/s Wan Hai Line (India) Pvt. Ltd, who have demanded huge amount of money in the name of movement charges of ADMIN-Rs. 3,000.00 for 20' & Rs. 6,000.00 for 40' + GST (non-refundable) per container and additional Security Deposit - Rs. 15,000.00 for 20' & Rs. 30,000.00 for 40'.

2.1 Based on the said complaint, the adjudicating authority called for an explanation from M/s Wan Hai Line (India) Pvt. Ltd vide letter F. No. CUS/MCD/MISC/56/2023 dated 01.04.2024 seeking them to reply in this matter within 03 days of receipt of the said letter and subsequently the appellant, vide their letter dated 04.04.2024, has submitted their reply stating that:

*"We fully adhere to Public Notice No. 51/2017-18 dated 23.03.2027. Accordingly, we desist from charging any Container Handling Charges, Nomination fees etc. from the consignees. Also, no charges, whatsoever, are levied on DPT consignees in respect if Direct Delivery or Delivery through CFS. However, in respect of consignees who opt for non-nominated CFS we levy nominal charge just to cover-up administrative cost for*



*keeping track of the container and to cover the cost of our surveyor/ staff visits to non- nominated CFS, to monitor the container. As far as refundable security deposit is concerned, we collect the same in order to cover damage to the container as we have no hold on the non-nominated CFS. Since it is a refundable security deposit the consignee should not have any problem as long as they return the empty container in seaworthy condition after de- stuffing."*

2.2 The definition of service Customs Cargo Services provide is elaborated in para 2(1b) of Handling of Cargo in Customs Areas Regulations, 2009. The definition of Customs Cargo Services Provider as at Para-7 says that the person responsible for Delivery, dispatch... and hence the shipping line will correctly fall under the said category of the person responsible for delivery and dispatch and further above provision makes it clear that the Shipping Line / Agent shall have to follow the procedures as prescribed under Customs Act, 1962. Further, Regulation 10(1) (m) of Sea Cargo Manifest and Transshipment Regulations, 2018 stipulates that the authorized carrier should abide by all the provisions of the Act and the rules, regulations, notifications and orders issued thereunder. The Public Notice No. 51/2017-18 dated 23.03.2018 issued by the Commissioner of Customs, Mundra and Para 9 of said public notice clearly states that Shipping line/steamer agent should not prescribe/ put any extra condition on the importer opting to avail choice of CFS facility as provided under Facility Notice No. 12/2017-18 dated 15.12.2017.

2.3 In view of the above, it appeared that the appellant i.e. M/s. Wan Hai Line (India) Pvt. Ltd., has violated the Clause 6(1)(1) of Handling of Cargo in Customs Areas Regulations, 2009 and Regulation 10(1)(m) Sea cargo Manifest and Transshipment Regulations, 2018 and Para 9 of the Public Notice No. 51/2017-18 dated 23.03.2018 issue by the Commissioner for ease of doing business in the Custom House, Mundra. Therefore, a Show Cause Notice was been issued to M/s Wan Hai Line (India) Pvt. Ltd., to show cause as to why:

i. \* Penalty should not be imposed under Section 117 of the Customs Act, 1962 on failure on part of the above, in violation of Handling of cargo in Customs Areas Regulation, 2009(HCCAR, 2009) and Sea Cargo Manifest and Transshipment Regulations, 2018 by way of dis-honouring of public notice issued by the Customs Department.

2.4 Consequently, the Adjudicating Authority passed the order wherein he imposed penalty of Rs.4,00,000/- on the line Ms Wan Hai Line (India) Pvt. Ltd under Section 117 of the Customs Act, 1962.

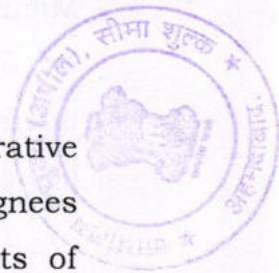
**SUBMISSIONS OF THE APPELLANT:**

3. Being aggrieved with the impugned order, the Appellant has filed the present appeal against the order passed by the Assistant 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 the Respondent. However, the same have been examined and the brief is as under:

3.1 The Appellant argues that the Handling of Cargo in Customs Areas Regulations (HCCAR), 2009, which formed the basis of the initial Show Cause Notice, is legally inapplicable to them. They contend that these regulations are specifically designed for Customs Cargo Service Providers—such as Container Freight Stations (CFSs) and Inland Container Depots (ICDs)—who act as custodians of goods under Section 45 of the Customs Act. As a Shipping Line, their responsibility for the cargo ceases once the goods are safely unloaded at the destination port. To support this, they cite a Delhi High Court judgment dtd. 10.08.2021 in case of M/s. Polytech Trade Foundation vs. Union of India & Ors. stating that Shipping Lines are not Customs Cargo Service Providers and remain outside the purview of HCCAR.

3.2 Regarding the alleged violations of the Sea Cargo Manifest and Transshipment Regulations (SCMTR), 2018, the Appellant maintains they are in full compliance with relevant reporting functions like delivery manifests and transshipment declarations. They argue that the specific allegations regarding cargo movement and charges have no actual correlation with the responsibilities enumerated under SCMTR. Furthermore, they assert that they have adhered to Public Notice No. 51/2017-18 by ceasing the levy of Container Handling Charges and nomination fees for Direct Port Delivery (DPD) consignees.

3.3 The Appellant justifies the collection of nominal administrative charges and refundable security deposits from non-nominated CFS consignees as a necessary commercial practice. These fees cover the actual costs of monitoring containers at third-party facilities and protect the carrier from potential damage or recovery hassles. They contend that these charges are part of a private contract of carriage and are transparently displayed on their website as required by law. They cite a Bombay High Court judgment to argue that public notices should not interfere with such private contracts between shipping lines and merchants.



3.4 Finally, the Appellant characterizes the ₹4,00,000 penalty as harsh, excessive, and arbitrary, especially given that it stems from what they view as a minor procedural misunderstanding rather than a deliberate defiance of the law. Relying on various legal precedents, including Supreme Court rulings, they argue that penalties should not be imposed for technical or venial breaches where the party acted in bona fide belief. They maintain that as a shipping agent earning modest remuneration, such a high penalty is unjustifiable and violates the principles of natural justice.

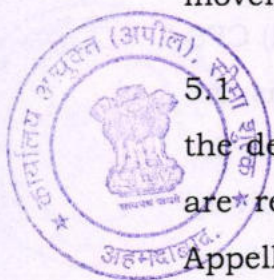
#### **PERSONAL HEARING:**

4. Personal hearing was granted to the Appellant on 09.09.2025, following the principles of natural justice wherein Shri Rajesh Jain, Advocate, 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 Assistant Commissioner, Customs, Mundra and the defense put forth by the Appellant in their appeal. The core issue to be decided is whether the Appellant, a Shipping Line, is liable for penalty under Section 117 of the Customs Act, 1962, for allegedly violating Public Notice No. 51/2017-18 by collecting administrative charges and security deposits for allowing cargo movement to a non-nominated CFS.

5.1 The Adjudicating Authority has held that the Appellant falls under the definition of CCSP under Regulation 2(1)(b) of HCCAR, 2009 because they are responsible for the "dispatch" of goods. However, I find merit in the Appellant's submission that the primary function of a Shipping Line is the carriage of goods. The Hon'ble Delhi High Court in the case of Polytech Trade Foundation vs. Union of India & Ors. (W.P.(C) 3029/2020) observed that Shipping Lines are not Customs Cargo Service Providers within the meaning of HCCAR, 2009. The HCCAR is primarily directed at Custodians who hold physical custody of the cargo in the Customs Area. While Shipping Lines have obligations under the Customs Act (specifically regarding the IGM/EGM and SCMTR), extending the full scope of HCCAR liabilities—intended for custodians of cargo—



*[Handwritten signature]*

to Shipping Lines regarding their commercial charges is a stretched interpretation.

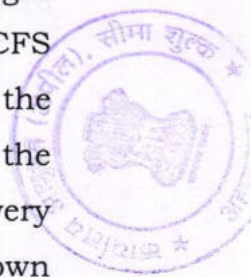
5.2 The central dispute is whether the Customs Department, via a Public Notice, can dictate the commercial charges (such as admin charges or security deposits) levied by a Shipping Line on an importer. The Adjudicating Authority relied on the case of P. Perichi Gounder Memorial and Sriven Marketings to hold that Public Notices are binding orders. However, the specific issue of whether such notices can override private commercial contracts regarding charges has been conclusively settled by the Hon'ble Bombay High Court in a more recent and direct judgment.

5.3 I rely on the judgment of the Hon'ble Bombay High Court in Writ Petition No. 2914 of 2021 (MSC Mediterranean Shipping Company S.A. vs. Union of India & Ors.) and connected petitions, decided on 26.07.2024. In that case, the Shipping Lines challenged similar Public Notices issued by Customs authorities that restricted the levy of certain charges (like Terminal Handling Charges). The Customs Department filed an affidavit stating that the Public Notices "do not interfere in the private contract between the Shipping Lines and the Exporters/Importers." Based on this, the Hon'ble High Court held:

*"(d) ----- the said Public Notices do not interfere with private contracts that the shipping lines have with the importers and exporters. Shipping lines are free to enter into contract with exporter and importer on such commercial terms as they may deem fit."*

5.4 In the present case, the Appellant collected Administrative Charges to cover the cost of monitoring containers at a third-party (non-nominated) CFS & Security Deposit to secure against damage to the container (which is the property of the Shipping Line). These are purely commercial terms between the Shipping Line (Appellant) and the Importer. The importer, by taking the Delivery Order, enters into a contract with the Shipping Line. As per the ratio laid down in the MSC Mediterranean Shipping Company case, Public Notice No. 51/2017-18 cannot be interpreted to prohibit the Shipping Line from collecting charges agreed upon or necessitated by their private contract for the safety and monitoring of their equipment (containers).

5.5 The Adjudicating Authority cited P. Perichi Gounder Memorial (Madras HC) to argue that Steamer Agents are CCSPs. While Steamer Agents



operate in Customs Areas, the specific power to regulate their pricing and commercial terms via Public Notice was not the subject of that judgment in the context of the specific relief granted by the Bombay High Court in the MSC case. The MSC judgment is specific to the issue of interference in private contracts regarding charges, which is the exact subject matter of this dispute. Therefore, the MSC judgment is more applicable to the facts at hand.

5.6 Section 117 of the Customs Act, 1962 provides for penalties for contraventions where no express penalty is provided. For a penalty to be sustainable, there must be a clear contravention of the Act or Regulations. Since the Hon'ble High Court has clarified that Public Notices cannot interfere with private contracts regarding charges, the act of collecting "admin charges" or "security deposit" based on a private commercial necessity does not amount to a violation of the Customs Act or the Public Notice in a manner that attracts penal provisions. The collection of a refundable security deposit to protect the shipping line's asset (container) is a prudent commercial practice and does not violate the "ease of doing business" principles when viewed in the context of protecting property rights.

5.7 In view of the judicial pronouncement by the Hon'ble Bombay High Court in the case of MSC Mediterranean Shipping Company S.A., it is held that the Appellant was within their rights to charge fees as per their commercial contract/arrangement with the importer. The Public Notice No. 51/2017-18 cannot be invoked to penalize the Appellant for exercising their commercial rights under a private contract. Consequently, the finding of violation of HCCAR, 2009 and SCMTR, 2018 is incorrect.

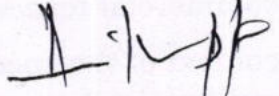
6. In view of the comprehensive discussion and findings above, I pass the order as under :

- a. The Order-in-Original No. MCH/336/TD/AC/MCD/2024-25 dated 12.08.2024 passed by the Assistant Commissioner of Customs, Mundra, is hereby set aside.
- b. The penalty of Rs. 4,00,000/- (Rupees Four Lakhs) imposed on the Appellant under Section 117 of the Customs Act, 1962, is annulled.



- c. The Appeal filed by M/s Wan Hai Lines (India) Pvt Ltd is allowed with consequential relief, if any.



  
(AMIT GUPTA)

Commissioner (Appeals),  
Customs, Ahmedabad

F. No. S/49-201/CUS/MUN/2024-25


5007

Date: 26.12.2025

By Speed post/E-Mail

To,  
M/s Wan Hai Lines (India) Pvt Ltd,  
Office No. 1 & 2, MDS Enclave,  
Gandhidham, Gujarat-370201

सत्यापित/ATTESTED

  
अधीक्षक/SUPERINTENDENT  
रहीमा घुलक (अपील्स), अहमदाबाद.  
CUSTOMS (APPEALS), AHMEDABAD

Copy to:

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