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-20260371MN0000220725

क	फ़ाइल संख्या FILE NO.	S/49-500/CUS/MUN/NOV/2025-26
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- 912 -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.	Letter F. No. VIII/48-04/ADJ/ADC/MCH/2024-25 dated 14.10.2025
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:	M/s. Shree Ram Trading, 1st Floor, Office No. 111, Kutch Platinum Arcade, Survey No. 234-1, 235, Mithi Rohar Branch Post Office Mithirohar, Kachchh, Gujarat-370240

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 है.
	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/-**(रूपए दो सौ मात्र)या रु.**1000/-**(रूपए एक हज़ार मात्र), जैसा भी मामला हो, से सम्ब न्धित 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 सम्बंन्ध 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, केंद्रीय 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 हज़ार 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 रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच हज़ार 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 रूपए से अधिक हो तो; दस हज़ार 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

The present appeal has been filed by M/s. Shree Ram Trading, Kachchh, Gujarat (hereinafter referred to as "the appellant") under Section 128 of the Customs Act, 1962 against Letter F. No. VIII/48-04/ADJ/ADC/MCH/2024-25 dated 14.10.2025 (hereinafter referred to as the "impugned order") passed by the Additional Commissioner, Customs House, Mundra.

2.1 Briefly stated, facts of the case are that, intelligence was gathered by the Directorate of Revenue Intelligence (DRI), Noida Regional Unit, to the effect that the appellant was engaged in import of restricted petroleum products classifiable under Customs Tariff Heading (CTH) 2710, which are importable only through State Trading Enterprises (STEs), as per the prevailing import policy. It was further gathered that the appellant was allegedly mis-declaring such goods as "Mixed Hydrocarbon Oil (MHO)" and classifying the same under Customs Tariff Item (CTI) 27101990, wherein the import policy is "Free", with an intent to circumvent the applicable restrictions.

2.2 Acting upon the said intelligence, consignments covered under three Bills of Entry, comprising 04 containers under one Bill of Entry and 30 containers under two Bills of Entry, were put on hold for detailed examination on 15.02.2024 and 27.02.2024 respectively. The goods were examined on 12.03.2024 and 13.03.2024 in the presence of the authorized representative of the Customs Broker and CFS officials. Representative samples were drawn and forwarded to CRCL, Visakhapatnam for testing and identification.

2.3 The CRCL, Visakhapatnam, vide test reports dated 03.06.2024, reported that the samples drawn from consignments covered under Bills of Entry No. 2240118 dated 21.02.2024 and 2014315 dated 06.02.2024 conformed to the specifications of Automotive Diesel Fuel (Bharat Stage IV) and High Flash High Speed Diesel (HFHSD) as per IS 1460:2017 and IS 16861:2018 respectively. Further, the sample pertaining to Bill of Entry No. 2239931 dated 21.02.2024 was found to conform to the specifications of Kerosene as per IS 1459:1974. The test reports also indicated that there is no recognized specification for "Mixed Hydrocarbon Oil" in any national or international standards.

2.4 In view of the above test results, it appeared that the goods imported by the appellant were in fact restricted items, namely High Flash High Speed Diesel

and Kerosene, the import of which is permitted only through State Trading Enterprises.

2.5 Statement of Shri Popat Nishit Bharatbhai, authorized representative of the appellant firm, was recorded under Section 108 of the Customs Act, 1962 on 06.08.2024. In his statement, he admitted having perused the CRCL test reports and agreed with the findings therein, including the classification of the goods as Automotive Diesel Fuel and Kerosene, as applicable to the respective consignments.

2.6 Subsequently, the appellant, vide letter dated 11.09.2025 and during personal hearing held on 30.09.2025, requested for re-testing of the samples, disputing the findings of the CRCL test reports.

2.7 The Adjudicating Authority examined the request for re-testing in light of the available records and observed that the appellant had already accepted the test results in the statement recorded under Section 108 of the Act and had not raised any objection at the relevant time. It was further observed that as per CBIC Circular No. 30/2017-Cus. dated 18.07.2017, a request for re-testing is required to be made within ten days from the receipt of the test report, whereas the appellant's request was made after a lapse of more than one year without any justifiable reason.

2.8 The Adjudicating Authority also noted that the test reports issued by CRCL, Visakhapatnam are conclusive in nature in the absence of any procedural irregularity, and no valid grounds were brought forth by the appellant to doubt the correctness of the test results. The belated request for re-testing was therefore considered as an afterthought and an attempt to delay the adjudication proceedings.

2.9 Accordingly, the Adjudicating Authority rejected the appellant's request for re-testing, holding the same to be devoid of merit and not in accordance with the prescribed guidelines.

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 House, 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 Respondent. However, the same have been examined and the brief is as under:

3.1 The appellant contends that the original Central Revenue Control Laboratory (CRCL) test report was insufficient because it failed to reveal the exact characteristics of the imported "Mixed Hydrocarbon Oil". They argue that the parameters used were not determined in a way that differentiates the product from restricted petroleum products. Furthermore, the appellant emphasizes that the specific methodology used by CRCL was never disclosed to them, preventing them from referring the same standards to their supplier's test agency for verification. They maintain that in the absence of a clear method of analysis, the determination of parameters remains questionable, especially since the report forms the sole basis for allowing or restricting free importation.

3.2 A central argument of the appeal is that the 10-day limit for requesting a retest, as stipulated in Circular No. 30/2017 dated 18.07.2017, is "directory" rather than "regulatory". The appellant admits the request was made after the 10-day period but explains the delay was due to time spent attempting to obtain the testing methodology from CRCL through personal requests. They argue that the Respondent had the power to consider the merits of the case and allow the retest to meet the ends of natural justice, rather than rejecting it on a purely technical lapse of time.

3.3 The appellant asserts that the denial of a retest constitutes a serious violation of the principles of natural justice, particularly as the goods are incurring high detention and demurrage charges, leading to financial loss. Citing various judicial precedents, such as Katyal Industries v. Union of India and G.L. Khanna & Sons v. Commissioner of Customs, the appellant argues that the right to retesting is a statutory one. They contend that once an importer expresses dissatisfaction with a test report, the request for a retest by a government laboratory should be entertained regardless of whether the original report was clear or complete.

3.4 The appeal highlights that Mixed Hydrocarbon Oil (MHO) has been regularly imported through various Indian ports, suggesting it should not be categorized as a restricted item. They challenge the Respondent's reliance on the CRCL report, which claimed the oil met specifications for "Automotive Diesel Fuel

BS IV" and "Kerosene". By referencing the A.V.R. Chemicals (P) Ltd. case, the appellant argues that a test report cannot be relied upon if the findings are challenged and a retest is denied, as the Chemical Examiner may have gone beyond their brief in suggesting a specific classification.

PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 28.01.2026 following the principles of natural justice wherein Shri S. K. Mathur, 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 Additional Commissioner, Customs House, Mundra and the defense put forth by the Appellant in their appeal.

5.1 The primary grievance of the Appellant pertains to the rejection of their request for a second test/re-testing of the samples. To address this, it is essential to analyze the legal framework governing re-testing in Customs. CBIC Circular No. 30/2017-Customs dated 18.07.2017 was issued to give effect to the WTO Trade Facilitation Agreement (TFA), specifically Article 5.3.1, which grants an opportunity for a second test in case of adverse findings. Para 2(b) of the said Circular explicitly states:

"In case the importer or his agent intends to request the Additional/Joint Commissioner of Customs for a re-test, the same shall be made in writing to the said officer within a period of ten days from the receipt of the communication of the test results of the first test."

5.2 The intent of this 10-day limitation is to ensure the integrity of the sample and the expeditious clearance of goods. In the present case, the CRCL reports were communicated to the Appellant in 2024. The proprietor's statement acknowledging these results was recorded on 06.08.2024. However, the request for re-testing was submitted only on 11.09.2025—a delay of more than 400 days. The Appellant's reliance on the phrase "Customs officers may take a reasoned view" in the Circular to condone this delay is misplaced. Condonation of delay requires the showing of "sufficient cause" that prevented the party from acting within the stipulated time. The Appellant has failed to provide any valid

justification for waiting over a year. A "reasoned view" cannot be an "arbitrary view" that renders the 10-day statutory guideline redundant. Allowing re-testing after such an extensive duration would set a dangerous precedent, where importers could use re-testing as a tool to indefinitely delay adjudication proceedings.

5.3 Furthermore, the sanctity of a test report from a government-controlled laboratory like CRCL cannot be undermined without specific evidence of procedural irregularity. The CRCL, Vizag, is a premier institution whose findings on technical parameters like distillation, flash point, and viscosity are based on standardized IS (Indian Standard) methods. In this case, the Appellant's objection is a mere general denial without pointing to any specific scientific error in the CRCL's analysis of the IS:1460 (Diesel) or IS:1459 (Kerosene) specifications.

5.4 Consequently, given the extraordinary delay and the absence of any substantiated challenge to the technical accuracy of the CRCL report, I find that the Adjudicating Authority was correct in strictly adhering to the timelines and conditions set by Circular No. 30/2017-Cus. The request for re-testing was rightly rejected as being an afterthought intended to hamper the course of justice.

5.5 The most critical piece of evidence against the Appellant is the voluntary statement of the proprietor dated 06.08.2024. In this statement, recorded under Section 108 of the Customs Act, 1962, the proprietor perused the parameters and explicitly agreed with the CRCL conclusion that the goods were Diesel and Kerosene. It is a well-settled principle of law that a statement made before a Customs Officer under Section 108 is admissible evidence. The Hon'ble Supreme Court in K.I. Pavunny v. Assistant Collector (HQ), Central Excise, Collectorate, Cochin [1997 (90) E.L.T. 241 (S.C.)] held that if a statement is made voluntarily, it can form the sole basis for conviction or liability. Since the proprietor accepted the results without any coercion or protest at the time of recording the statement, the subsequent request for re-testing after 13 months is clearly an afterthought aimed at stalling adjudication.

5.6 The Appellant has relied on Katyal Industries v. Union of India (2012). However, in that case, the request for re-testing was made promptly and the court dealt with the statutory right under the Excise Manual where the dissatisfaction was recorded early. In the present case, the Appellant did not

record dissatisfaction; rather, they recorded satisfaction and acceptance through a Section 108 statement.

5.7 Similarly, the reliance on G.L. Khanna & Sons (2024) is misplaced. In that case, the dispute was regarding the classification of "Fuel Oil" vs. "Hazardous Waste" based on density parameters, and the request for re-testing was made within a reasonable timeframe (test result dated 06.06.2022 and request dated 11.07.2022). In the instant case, the delay is astronomical (13+ months), and the product identity (Diesel/Kerosene) is clear from multiple IS standard parameters, not just a single factor like density.

5.8 The DRI intelligence specifically identified the use of the term "MHO" as a mis-declaration tool. The CRCL report confirms that "MHO" has no standardized definition. By declaring goods as MHO (Free) while importing Diesel/Kerosene (Restricted/STE), the Appellant has clearly violated the Import Policy. The identity of the goods as Diesel/Kerosene is confirmed by CRCL based on flash point, viscosity, and distillation characteristics. The Appellant's claim that they "do not know the methodology" is a weak defense, as CRCL Vizag is a premier government laboratory following standard IS protocols.

5.9 While re-testing is a trade facilitation measure, it is not an absolute right that can be invoked at any time. Natural justice does not mean the right to create an endless loop of testing. The Appellant was given the test reports, their representative admitted to them, and they were given an opportunity for a personal hearing on 30.09.2025. The denial of a delayed, unsubstantiated request does not violate natural justice. In Surjeet Singh Chhabra v. Union of India [1997 (89) E.L.T. 646 (S.C.)], the Apex Court held that when an admission is made, the principles of natural justice are satisfied if the party is aware of the evidence against them.

5.10 The request for re-testing is hit by the limitation period of 10 days prescribed in Circular No. 30/2017-Cus. A delay of over a year, in the absence of any compelling reasons, makes the request legally untenable. The voluntary admission of the proprietor under Section 108, accepting the CRCL findings, acts as an estoppel against any subsequent challenge to those specific test results. The CRCL reports are comprehensive and identify the goods as restricted items (Diesel and Kerosene) based on established IS standards. The declaration of "MHO" is a deliberate mis-declaration to bypass STE requirements. The judgments cited by the Appellant are distinguished on facts, primarily due to the admission of results and the extreme delay in the present case.

6. In light of the above discussion and findings, I find no infirmity in the Impugned Order passed by the Additional Commissioner of Customs, Mundra. The rejection of the request for re-testing is consistent with Board Circulars and the principles of administrative law.

7. The Appeal filed by M/s. Shree Ram Trading is hereby rejected.

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

F. No. S/49-500/CUS/MUN/NOV/2025-26 Date: 30.03.2026

By Speed post A.D/E-Mail

To,
M/s. Shree Ram Trading,
1st Floor, Office No. 111, Kutch Platnum Arcade,
Survey No. 234-1, 235, Mithi Rohar Branch Post Office
Mithirohar, Kachchh, Gujarat-370240

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.