सीमाशुल्क (अपील) आयुक्तका कार्यालय, अहमदाबाद
OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD
चौथी मंज़िल **4th Floor**, हडको बिल्डिंग **HUDCO Building**, ईश्वर भुवन रोड़ **Ishwar Bhuvan Road**,
नवरंगपुरा **Navrangpura**, अहमदाबाद **Ahmedabad – 380 009.**
दूरभाष क्रमांक **Tel. No. 079-26589281**

DIN-20261071MN0000316A96

क	फ़ाइल संख्या FILE NO.	S/49-450/CUS/JMN/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) :	JMN-CUSTM-000-APP-88-2026-27
ग	पारितकर्ता PASSED BY	Shri Vishwajeet Singh Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	22.10.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	65/DC/RD/2024-25 Dated 05.12.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	22.10.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	1. M/s Chiripal Ploy Films Ltd, 3rd & 4th Floor, Chiripal House Shivranjani Cross Roads, Satellite, Ahmedabad, Gujarat

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 imported
(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

1. Brief facts of the case

1.1 M/s Chiripal Ploy Films Ltd, 3rd & 4th Floor, Chiripal House Shivranjani Cross Roads, Satellite, Ahmedabad, Gujarat (herein after referred to as the "Appellant for the sake of brevity) has filed the present appeal against Order-In-Original 65/DC/RD/2024-25 dated 05.12.2024 (herein after referred to as the "impugned order") issued by the Deputy Commissioner, Customs Division, Jamnagar (herein after referred to as the "Adjudicating Authority).

1.2 The Appellant) submitted a refund claim of Rs. 1,45,37,545/- under Section 27 of the Customs Act, 1962 which was paid consequent to the re-assessment of Bills of Entry has tabulated below.

Amount in Rs.

Sr.No.	Bill of Entry No.	Bill of Entry Date	IGST @18%	Interest
1	2010638	25.07.2018	829570	635474
2	2010639	25.07.2018	829570	635474
3	2010640	25.07.2018	1106094	847298
4	2010642	25.07.2018	1106094	847298
5	2010643	25.07.2018	1106094	847298
6	2010641	25.07.2018	553047	423649
7	2011160	06.08.2018	1097189	835066
8	2011966	23.08.2018	836889	631106
9	2011965	23.08.2018	836889	631106
10	2012828	07.09.2018	855407	639798
11	2012827	07.09.2018	855407	639798
12	2012984	10.09.2018	1140543	851657
13	2012985	10.09.2018	855407	638743
14	2013114	12.08.2018	855407	638743
15	2013157	20.09.2018	855407	638743
16	2013554	20.09.2018	200532	148915
17	2015175	17.10.2018	391304	286241
18	2015171	17.10.2018	1173911	858724
19	2015170	17.10.2018	1173911	858724
20	2015172	17.10.2018	1173911	858724
21	2015173	17.10.2018	782607	572483
22	2015174	17.10.2018	782607	572483
Total			**19397795**	**14537545**

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1.3 The Adjudicating Authority vide the impugned order rejected the refund claim.

1.4 Being aggrieved by the impugned order, the Appellant preferred the present appeal.

2. Ground of Appeal submitted by the Appellant

2.1 The Appellant submitted that the impugned O-I-O dated 05-12-2024 passed by Deputy Commissioner of Customs, Jamnagar on Rejection of Refund is bad in law, not sustainable and findings are contrary to facts established law and the same are required to be set aside. The adjudicating authority has not correctly appreciated the facts of this case in true spirit and not applied the law applicable to such facts.

2.2 The adjudicating authority in this O-I-O dated 05-12-2024, has grossly violated the principles of Natural Justice. The impugned Order dated 05-12-2024 has incorrectly mentioned factual details. Appellant submit that vide letter dated 25-10-2024, the adjudicating authority at Jamnagar had raised 3 discrepancies or observations on scrutiny of the Refund claim by his office and Appellant was allowed an opportunity of PH to clarify discrepancies or observations in the Refund claim. Appellant vide its letter dated 20-11-2024 clarified the 3 discrepancies or observations and also submitted that the clarifications, decisions and documents submitted satisfy observations and requirements for processing Refund Application for release refund of "Interest Amount" deposited by Applicant during the proceedings "under protest". Appellant also requested to allow opportunity of representing our case in person, following the principles of natural justice. The PH allowed on 26-11-2024 to clarify. However, adjudicating authority has not issued Show Cause Notice showing any grounds proposing to reject the Refund claim filed by the Appellant or allowed any opportunity to Appellant to explain grounds proposing to reject Refund, which is violation of the Natural Justice.

2.3 The Appellant further submitted that similarly, the adjudicating authority has made communication dated 19-09-2024 and obtained a Report dated 27-09-2024 from the Specified Officers from RSEZ, Jamnagar. The Adjudicating Authority has relied upon such Report dated 27-09-2024, but he has chosen not to provide copy of the said Report dated 27-09-2024 to Appellant and also listen to the Appellant on this Report dated 27-09-2024. Therefore, without providing a copy of said Report dated 27-09-2024 and hearing the Appellant on the said Report dated 27-09-2024, before passing this O-I-O dated 05-12-2024 is also a clear violation of the natural justice. Appellant submit that for rejecting any

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Refund, the normal procedure is to issue Show Cause Notice, as to why such refund application should not be rejected before final decision is taken is not followed in this case. The O-I-O is bad & not sustainable in law.

2.4 The Appellant cited the following case laws.

(i) 2014 (307) E.L.T. 673 (Guj.)- SHREE RANGANATHA EXPORTS vs UOI
(ii) 2011 (274) E.L.T. 141 (Tri. - Mumbai) – CCE, Aurangabad vs Sidheshwar Ssk Ltd
(iii) (2023) 5 Centax 79 (Tri.-Bom) / 2023 (73) G.S.T.L. 231 (Tri. - Mumbai) - Deloitte Global Financial Advisory India Pvt. Ltd.
(iv) 2015 (38) S.T.R. 1137 (Tri. - Mumbai)- Cummins Research & Techno. India Ltd.
(v) 1999 (112) ELT-457 (Tribunal)- Rajasthan Spinning & Weaving Mills vs CCE, Kanpur

2.5 The Appellant submitted that it is settled law that the Show Cause Notice is foundation in case of revenue, may it be matter of levy and recovery of duty or the refunds. It is settled that for building any such case, revenue has to consolidate all their points against an assessee and incorporate in Show Cause Notice and also to provide opportunity to Assessee to defend case in compliance to principles of Natural Justice. The O-I-O dt. 05-12-2024 without issuance of any SCN is only on assumptions and presumptions not permitted by the established law. This is gross violation of Principles of Natural Justice. This O-I-O has not correctly considered the most important factor or legal requirement of issuing the SCN before passing this O-I-O. Therefore, the entire O-I-O is baseless, bad in law ab-initio and also deserves to be set aside on gross violation of principles of natural justice.

2.6 The Appellant submitted that this O-I-O no. 65/DC/RD/2024-25 dated 05-12-2024 has rejected Refund claim on following unjustified grounds as primarily shown in the O-I-O Para 16 to 22 :-

A. Refund claim is time barred
B. Refund claim is premature, as 22 CA-1 Appeals are pending
C. CESTAT Order dated 23-07-2024 has not attained finality
D. Section 3(12) amended w.e.f. 16-08-2024 retrospective.
E. Filling Appeal against CESTAT Order dt. 23-07-2024 is in process

A Time barred Refund claim :-

2.7 The Appellant submitted that as per the Section 27 of the Customs Act 1962, Any person claiming refund of any duty or interest can normally file application for refund to Assistant/Deputy Commissioner of Customs, before the expiry of one year, from the date of payment of such duty or interest: Provided further

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that the limitation of one year shall not apply where any duty or interest has been paid under protest:

1A) The application under sub-section (1) shall be accompanied by such documentary or other evidence (including the documents referred to in section 28C) as the applicant may furnish to establish that the amount of duty or interest in relation to which such refund is claimed was collected from, or paid by him and the incidence of such duty or interest, has not been passed on by him to any other person.

(1B) Save as otherwise provided in this section, the period of limitation of one year shall be computed in the following manner, namely:-

(a) in the case of goods which are exempt from payment of duty by a special order issued under sub-section (2) of section 25, the limitation of one year shall be computed from the date of issue of such order;

(b) where the duty becomes refundable as a consequence of any judgment, decree, order or direction of the appellate authority, Appellate Tribunal or any court, the limitation of one year shall be computed from the date of such judgment, decree, order or direction;

(c) where any duty is paid provisionally under section 18, the limitation of one year shall be computed from the date of adjustment of duty after the final assessment thereof or in case of re-assessment, from the date of such re-assessment.]

2.8 The Appellant further submitted that in the facts of this case, adjudicating authority has not considered the facts as they are. He has merely relied upon general provision, which has stipulated that Application for Refund can be filed before the expiry of one year, from the date of payment of such duty or interest. In this case the O-I-O there is no dispute on the fact that the amount of "Interest" is deposited "under protest" on 31-08-2023 and intimation thereof is also given to the specified officers at RSEZ by the Appellant vide their letters dated 09-08-2023 and 16-08-2023, before making payment of "Interest" on 31-08-2023. Such "protest" is not vacated till date. Thus, bar of one year from date payment can not be invoked in the case of "Interest" paid under protest. Copies of Appellant's letter dated 09-08-2023 and 16-08-2023 are available as Annexure-I. Further, the period of limitation of one year shall be computed as provided u/s 27(18), but the adjudicating authority has ignored this clear provision is existing to compute time limitation from the relevant date for claiming the Refund u/s 27 ibid.

2.9 The Appellant had submitted Application for Refund vide its letter dated 27-05-2024, which was returned by the specified officers of RSEZ, Jamnagar vide letter dt. 16-06-2024 stating that it is pre-mature Refund claim. Thus, when the

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refund application was submitted within time limit of one year, it was returned as pre-mature Application. Hence, the time limitation, assuming without admitting, may starts from 13-04-2024 or from 27-05-2024. Thereafter, the Hon'ble CESTAT Ahmedabad vide its Final Order dated 23-07-2024 decided the Appeals on levy of such "Interest" holding that such "Interest" was not leviable in terms of provisions existed at the relevant time u/s 3(7) and 3(12) of the Customs Tariff Act 1975. Hence, the time limitation, starts from 23-07-2024. Refund Application was submitted by "Speed Post" on 23-08-2024. Copy of Ack by Speed Post is enclosed as Annexure-VI. Since, there was heavy rains and floods in Jamnagar area during that relevant period and due to Natural Calamity, it was likely that there may be some postal delay by speed post, beyond control by anyone. Appellant also submitted such Refund Application to RSEZ, Jamnagar on their official email id on 30-08-2024. Refund Application was submitted by Speed Post dated 23-08-2024 and copy thereof was sent on official email of RSEZ on 30-08-2024. Enclosed Annexure-VI. Appellant also submitted it was forwarded to DC, Division Jamnagar on 05-09-2024. A copy of the RSEZ, Jamnagar's letter is enclosed as Annexure-VII. In view of the above facts, it may be seen that the Refund Application is not time barred, as contemplated under Section 27 of the Customs Act 1962. The O-I-O is not sustainable.

Appellant make the following submissions on point 1-
B. Refund claim is premature, as 22 CA-1 Appeals are pending

2.10 The Appellant submitted that the Impugned O-I-O has also noted that as 22 CA-1 Appeals filed by Appellant before Commissioner(Appeals) are pending, consequently, Refund claim filed by the Appellant is also premature in this case. However, Appellant submit that the Adjudicating Authority has not correctly appreciated the facts of this case. Appellant submit that after the Hon'ble Supreme Court's decision dated 28-04-2023 and CBEC Circular dated 07-06-2023, Appellant vide its letter dated 09-08-2023 approached the Specified Officers at RSEZ, Jamnagar for considering the Re-assessment of 22 Bill of Entry. Since RSEZ, Jamnagar being non EDI Customs Station, RSEZ vide their letter dated 14-08-2023, also requested M/s NSDL., Trade World, A Wing, 4h Floor, Lower Parel, Mumbai-400013 under intimation to Appellant to enable the importers to pay IGST in terms of Trade Notice No.07/2023-24 dt. 08-06-2023. RSEZ, Jamnagar informed Appellant to obtain Bank DD from SBI, Jamnagar for amount to be paid. Then, Appellant vide its letter dated 16-08-2023 informed the specified officers that they will pay amount of "Interest" on duty under protest. Accordingly, Appellant obtained Bank DD from SBI on 29-08-2023 and gave it to officers in RSEZ, with TR-6 Challan and it was deposited in Bank on 31-08-2023 by the RSEZ Authorities towards amount of duty with interest for

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Re-assessment of 22 Bill of Entry. Then, the Appellant vide its 3 separate letters dated 21-01-2024, requested proper Customs officers at RSEZ, Jamnagar to provide Appellant (1) Speaking Order in terms of Section 17(5) of the Customs Act 1962, (2) Requested to Re-assess 22 Bill of Entry again under section 149 of Customs Act 1962 to reconsider Interest and (3) to provide certified copies of the Re-assessed 22 Bill of Entry. Accordingly, Specified Officer, RSEZ, Jamnagar under RSEZ's letter dated 13-03-2024 provided attested copies of said 22 Bill of Entry on 16-03-2024, without providing any speaking Order or any response on request under section 149 of Customs Act 1962. Since Appellant had not received Speaking Order on re-assessed Bill of Entry or response on request u/s 149 of the Customs Act 1962, with communication dated 13-03-2024, Appellant filed Appeals on 01-04-2024, which are pending consideration as on 05-12-2024. Copies of 3 letters dated 21.01.2024 and reply dt. 13-03-2024 by RSEZ, enclosed Annexure-III. However, in the meanwhile, Appellant's Appeals filed against recovery of "Interest" amount in similar imports under Advance Authorisation by Appellant in ports like ICD-Khodiyar, ACC, Ahmedabad, Mundra and JNCH before the Hon'ble CESTAT Ahmedabad came up for the PH and final decision. The Hon'ble CESTAT, Ahmedabad vide its Final Order dated 23-07-2024, has set aside "Interest", Redemption Fine and Penalty imposed.

2.11 The Appellant further submitted that this interest is paid under protest, which is claimed as the Refund, after the Hon'ble CESTAT's Final Order dated 23-07-2024. Though, such 22 CA-1 Appeals filed against Bill of Entry were pending before the Commissioner (Appeals) on 05-12-2024, the probable outcome is remand with directions to issue speaking order u/s 17(5) of CA 1962 and or direction to re-assess said 22 Bill of Entry u/s 149 of CA 1962. Further, the Hon'ble CESTAT being the higher supervisory authority, CESTAT's Orders will have a binding effect on Commissioner(Appeals) as well in the law. The Hon'ble CESTAT's Order dated 23-07-2024 is on the identical issue decided by the higher supervisory authority. The Hon'ble CESTAT's Final Orders on the identical issue of the same Appellant are binding on Commissioner (Appeals). The Hon'ble CESTAT in para 5.8 of Final Order dated 23-07-2024 has also held that:-

2.12 In the present cases, confirmation of interest demand, confiscation of goods, imposition of Redemption Fine and Penalty are objected claiming it to be illegal and unjustified. This Hon'ble Tribunal in case of Commissioner V/s. GNFC Ltd. 2010 (262) ELT 829 has held that even in case of voluntary payment of time-barred duty, it was open to contest liability of interest when department proposed to charge duty with interest which assessee paid voluntarily. This decision is upheld by a detailed judgment by the Hon'ble Gujarat High Court in Tax Appeal

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No. 56 of 2011 in case of GNFC Ltd. V/s. Commissioner, Vadodara 2012 (285) ELT 336 (Guj). Thus, it is open for Appellant to contest ability of Interest, confiscation, Redemption Fine and Penalty, even though the entire amount of Integrated tax is voluntarily paid by this Appellant.

The Appellant also cited the following case laws

(i) 2007 (216) E.E.T. 198 (P & H)-CCE vs NORTHERN MINERALS LTD,

(ii) 2017 (49) STR 337 (Tri-Ahmd)- Paper Products Ltd Vs CCE,

(iii) 2015 (40) STR-1069 (Tri-Mumbai)- Bank of Baroda vs CST, Mumbai,

(iv) 2015 (316) ELT. 353 (Bom.)-SUNBEL ALLOYS CO, OF INDIA LTD vs UOI.

(v) 2010 (252) E.1..T. 168 (Bom.) - Mercedes Benz India Pvt. Ltd vs 1001.

(vi) 2014 (305) E.LT. 282 (Guj.)-E.I. DUPONT INDIA PVT. LTD vs UOI it is held that

2.13 The Appellant submitted that the decision of the Hon'ble CESTAT in their own case becomes final law for the Appellant/Respondent, irrespective of its correctness. Respondent submit that Hon'ble Supreme Court of India [AIR 1990 SUPREME COURT 334] in the case of Supreme Court Employees' Welfare... vs Union Of India (Uoi) And Anr. on 24 July, 1989 has also held that, the question of law is related to the fact in issue, an erroneous decision on such a question of law may operate as res judicata between the parties in a subsequent suit or proceeding, if the cause of action is the same..... ... Assuming that the question of jurisdiction involved. Assuming that the judgments of the Delhi High Court are erroneous, such judgments being on questions of fact would still operate as res judicata between the same parties in a subsequent suit or proceeding over the same cause of action." Appellant also submit that in the Hon'ble Jammu & Kashmir High Court in the case of Abdul Salam vs State Of Jammu And Kashmir, on 23 September, 1980 Equivalent citations: AIR 1981 JK 21 has also held that the rights which have become final as a result of a judgment delivered by a competent court cannot be washed away by a subsequent interpretation in a different cause. The correctness or otherwise of the earlier decision is wholly irrelevant where the conditions for the application of the rule of res judicata are satisfied in the latter case."

2.14 The Appellant also relied upon the case law 2001(43)RLT-270(Guj) -CCE Vs GSFC Ltd has held that "decision of Court or Appellate Tribunal, unless set aside by higher forum, becomes final and has to be implemented even if the same is wrong." [Para 8 to 10]. In view of the above submission, it is submitted that the judicial order by the Higher Authority [CESTAT] becomes the binding precedent on all the adjudicating authorities and Commissioner(Appeals)

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working under jurisdiction of the said Higher Authority [CESTAT]. Therefore, such binding effect can not be ignored by the DC, Customs Jamnagar working under supervisory control of the Hon'ble CESTAT, Ahmedabad. Refund Application filed would not affect the decision making process as pre-mature, when the highest fact finding Authority in the cadre i.e. the Hon'ble CESTAT, Ahmedabad has issued their Final Order dated 23-07-2024 by setting aside the demands of "Interest" on duty and allowing the Appeals with consequential benefits on the identical issue. The fact of 22 CA-1 Appeals pending before Commissioner(Appeals) on the identically same issue as on 05-12-2024 does not change the mandate of judicial discipline in the administrative cadre and hierarchy of department. As per judicial discipline, Commissioner(Appeals) are also bound to follow the judicial discipline and follow the Orders dated 23-07-2024 of the Hon'ble CESTAT, Ahmedabad on the identical issue pending before Commissioner (Appeals). The impugned 0-1-0 dated 05-12-2024 is bad in law and not sustainable in the eye of law.

2.15 Appellant make the following submissions on point that:-

C. CESTAT Order dated 23-07-2024 has not attained finality

Appellant submit that adjudicating authority's view that the CESTAT Order dated 23-07-2024 has not attained finality is factually incorrect. The Hon'ble CESTAT order dated 23-07-2024 is a Final Order as reflected in the body of the Order itself. The Order dated 23-07-2024 by the Hon'ble CESTAT being Final in nature has to be followed by all officers unreservedly, unless over ruled or stayed by its higher Court. Adjudicating Authority was also required to and expected to first consequential relief, as allowed by the Hon'ble CESTAT, Ahmedabad, which legally is the higher judicial authority in the proceedings under Customs Act 1962. The adjudicating authority in this case has failed to abide by judicial discipline by not following the CESTAT's Final Order No. 11628-11630-2024 dt. 23-07-2024, as per Hon'ble Supreme Court in Kamlakshi Finance Corporation Ltd 1991(55) ELT-433(SC). Adjudicating authority erred to take contrary view to reject the Refund after the Hon'ble CESTAT's Final Order dated 23-07-2024. Deputy Commissioner of Customs (Refunds), Jamnagar took incorrect view, contrary to the Hon'ble CESTAT's Order dated 23-07-2024 without allowing Refund of "Interest", as a consequential relief in terms of the Final Order dated 23-07-2024 of the Hon'ble CESTAT, Ahmedabad. This impugned 0-1-0 dated 05-12-2024 having not followed directions of the Hon'ble CESTAT, Ahmedabad and mandatory judicial discipline, deserves to be set aside on this ground without going into merits. The undisputed fact is that Chief Commissioner of Customs has given concurrence to file Appeal. But, No Appeal is filed so far and no stay

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is obtained by Customs on Final Order dt. 23-07-2024. So, it should have been followed on 05-12-2024 or must have been implemented.

Applicant also relied upon the following decisions:-

a) 2011 (264) E.LT. 486 (5.C.)-RRF RIG CORPORATION VA CC (IMPORTS)

b) 2007 (207) E.LT. 324 (SC)-TRIVENI CHEMICALS LTD VI UOI

c) 2018 (342) E.LT. 463 (Tri-Kolkata)-NIPHA STEELS LTD vs CCE, Kolkata-IV

d) 2019 (369) E.LT. 1070 (Tri-Chennail VISHNU KUMAR TRADERS (P) LTD vs CC, CHENNAIHV

e)2009 (238) ELT. 718 (Guj)-CCE vs CHANDAN STEEL Ltd

f) 1997 (92) ELT. 467 (S.C.) Tribhuvandas BHIMJI ZAVERI V CCE

g) 1991 (55) ELT. 435 (S.C.)-UOI VI KAMLAKSHI FINANCE CORPORATION LTD

2.16 Appellant make the following submissions on point that:-

D Section 3(12) amended w.e.f. 16-08-2024 has regularized.:- Appellant submitted that adjudicating authority's view is incorrect that Section 3(12) of Customs Tariff Act 1975 amended w.e.f. 16-08-2024 has regularised issue of levy of Interest in this case. In facts the case, the adjudicating authority has taken totally incorrect view as against the Final Order dt. 23-07-2024 by the Hon'ble CESTAT'S Order. Further, Appellant submit that levy of Interest on delayed payment of duty[IGST] levied under section 3(7) of Customs Tariff Act, 1975 is not regularised by amending section 3(12) of Customs Tariff Act, 1975 w.e.f. 16-08-2024. Appellant submit that section 3(12) of Customs Tariff Act 1975 before and after amendment w.e.f. 16-08-2024 clearly shows as under:

Section 3(12) before amendment	Section 3(12) after amendment
"The provisions of the Customs Act, 1962 (52 of 1962) and the rules and regulations made thereunder, including those relating to drawbacks, refunds and exemption from duties shall, so far as may be, apply to the duty or tax or cess, as the case may be, chargeable under this section as they apply in relation to the duties leviable under that Act.]"	"3(12) The provisions of the Customs Act, 1962 (52 of 1962) and all rules and regulations made thereunder, including but not limited to those relating to the date for determination of rate of duty, assessment, non-levy, short-levy, refunds, exemptions, interest, recovery, appeals, offences and penalties shall, as far as may be, apply to the duty or tax or cess, as the case may be, chargeable under this section as they apply in relation to duties leviable under that Act or all rules or regulations made thereunder, as the case may be.".

2.17 The Appellant submitted that it is settled position in law by plethora of judicial decisions by the competent Courts that amendment in provision which is likely to increase any liability of citizens in India, such amendment has to be normally treated as the Prospective Amendment, unless otherwise provided in amendment itself that it is effective retrospectively or from any other prior date, as reflected in such amendment itself. Thus, it is a settled proposition in law that all laws are deemed to operate or apply prospectively unless either expressly specified to apply retrospectively or intended to have been done so by the

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Legislature. Appellant also submit that the said amendment w.e.f. 16-08-2024 has covered what was not existed in Section 3(12) ibid before it was amended on 16-08-2024. Thus, the effect of amendment can not be considered as to have effect to regularaised what was not existing before 16-08-2024 in section 3(12) of Customs Tariff Act 1975. The impugned 0-1-0 dated 05-12-2024 has taken incorrect view that said amendment in Section 3(12) of Customs Tariff Act 1975 is a retrospective amendment to regularise issue. This incorrect view taken by the adjudicating authority is not justified or acceptable view, which is contrary to the settled law by various decisions of competent courts and other Tribunals like CESTAT,

The Appellant relied upon some of the Decisions as under:-

2024 (88) G.S.T.L. 258 (Ker.)- INDIAN MEDICAL ASSOCIATION VS UOI

2023 (77) G.S.T.L. 350 (Jhar.) - TATA STEEL LTD vs UoI

2020 (373) ELT-721(SC)-L.R. Brothers Indo Flora Ltd vs CCE,

2019 (28) G.S.T.L.. 427 (Bom.) -CIPLA LTD vs CCE, Goa,

2019 (26) G.S.T.L. 470 (Del.)- GLOBAL CERAMICS PVT. LTD

2018 (362) E.E.T. 1023 (Bom.) Nasik Strips Pvt Ltd vs CCE, Nasik

2017 (355) E.L.T. 373 (Mad.) THIRU AROORAN SUGARS

2015 (321) E.L.T. 11 (S.C.) ANDHRA SUGARS LTD vs CC Chennai

2002 (142) E.LT. 5 (S.C.) - OSRAM SURYA (P) LTD vs CCE, Indore

2.18 The Appellant submitted that the amendment made on 16-08-2024 to Section 3(12) of the Customs Tariff Act, 1975 being prospective in nature w.e.f 16-08-2024, it cannot be applied for period of imports of goods prior to such amendment and it will not apply to the cases of imports of goods made prior to 16-08-2024. Needless to mention that the imports by the Applicant, Deposit of the "Interest" made on 31-08-2023 and the Hon'ble CESTAT, Ahmedabad's Final Order No. 11628-11630/2024 dt. 23-07-2024 are all prior to 16-08-2024. Further, this prospective amendment has also established that there was no such provision prior to 16-08-2024 in the said section 3(12) of the Customs Tariff Act, 1975 to charge the "Interest". The Appellant submit that this amendment in section 3(12) w.e.f. 16-08-2024 can not be made applicable in this case to delay or deny eligible refund. This is a substantive change to charge interest for delayed payment of customs duty[IGST] in cases of import in post GST Regime, brought about with the said amendment to Section 3(12) of Customs Tariff Act, 1975 w.e.f. 16-08-2024. Therefore, Appellant pointed out and had requested the Deputy Commissioner (Refund) at Jamnagar to proceed to implement the Hon'ble Tribunal, Ahmedabad's Final order dated 23-07-2024 first by releasing the eligible Refund claimed. However, the adjudicating authority has ignored such submissions to reject the refund claimed by Appellant. The Final order

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dated 23-07-2024 has so far not been over ruled or stayed by the competent higher court i.e. the Hon'ble Supreme Court or the Hon'ble Gujarat High Court. Hence, the adjudicating authority at Jamnagar was/is expected to unreservedly follow CESTAT order dated 23-07-2024 and implement the same by first allowing the eligible Refund, as consequential reliefs allowed by the Hon'ble CESTAT, Ahmedabad's Final Order dated 23-07-2024.

2.19 The Appellant further submitted that the adjudicating authority has also taken incorrect view that IGST is Customs duty in imports, Provisions for recovery of Interest on duty under Customs Act 1962 are applicable, for recovery of late payments of IGST in cases of imports under Customs Act 1962. However, observations by Deputy Commissioner (Refunds), Jamnagar are unacceptable Assumptions and Presumptions of officers at the Jamnagar Port. Appellant submit that in the cases of Imports, in post GST regime, IGST is being levied as Customs duty, under section 3(7) of Customs Tariff Act 1975. There was no provision in Customs Tariff Act 1975, like Section 28AA of Customs Act 1962 for levy of interest on non payment, short payment or delayed payment of the Customs Duty. Section 28AA of Customs Act 1962 is a charging section for interest on delayed payment of customs duty levied u/s 12 of the Customs Act 1962. However, IGST on the goods imported into India is not a duty leviable under Section 12 of Customs Act 1962. Till 16-08-2024, there was no statutory provision made applicable under the section 3(7) or 3(12) of the Customs Tariff Act, 1975 for such recoveries on delayed payment of duty [IGST] in Imports in facts of this case at that relevant time. Interest is the separate and independent financial levy, and hence charging provision must be there in statute levying interest is mandate of settled law by provisions for separate and independent levy and decisions by the High courts and Supreme Court. The orders for recovery of interest on late payment of IGST during Reassessment process of Bill of Entry for period 13-10-2017 to 09-01-2019 are without authority of law and it is unsustainable. In this case, leviability of the IGST under Section 3(7) of Customs Tariff Act 1975 is the issue. Section 3(7) is charging section for IGST on goods imported into India, and it is a separate levy independent of Customs Duty leviable under Section 12 of Customs Act 1962. Charge of interest on import prior to 16-08-2024 is ex-facie, contrary to law for charging interest u/s 3(7) of Customs Tariff Act and decisions of Hon'ble Supreme Court, Punjab & Haryana High Court, Gujarat High Court, Bombay High Court and other decisions. Charge of additional financial liability of interest prior to 16-08-2024 is not sustainable in law, particularly when there was no statutory provision for imposing, charging and recovery of "Interest" u/s 3(7) or 3(12) of the Customs Tariff Act, 1975. There was no justification in facts of this case or any authority

in law to charge interest during Re-assessment and collection or recovery of Interest on 31-08-2023 from this Appellant for the period in question. Appellant has also relied upon the following judgments to support the view on levy of Interest on IGST:-

a) CCE v/s UKAI PRADESH SAHAKARI KHAND UDYOG MANDLI LTD-2011 (271) ELT 32 (Guj)

b) Mahindra & Mahindra Ltd-(2023) 3 Centax 261(BOM) and 2022 (10) TMI 212-Bombay High Court

Revenue's SLP against judgment of the Hon'ble Bombay High Court was dismissed by the Hon'ble Apex Court and review petition was rejected. Relled 2023 (386) E.LT. 11 (S.C.)-UOI vs Mahindra & Mahindra Ltd.

DEVI DASS GOPAL KRISHAN LTD vs UOI-2002 (140) ELT. 56 (P&

d) Acer India (Pvt.) Ltd vs CC(Audit)- Chennai CESTAT's FINAL ORDER No.40534/2024 dated 06-05-2024

el Khemka and Co. (Agencies) Pvt. Ltd. v. State of Maharashtra-1975 (2) SCC 22

Pioneer Silk Mills Pvt. Ltd. v. U.O.1-1995(80)ELT-507(Dell) (approved by Apex Court in Union of India v. Pioneer Silk Mills Pvt. Ltd.-2002(145)ELT-A74[SC]

CCE, Ahmedabad vs ORIENT FABRICS PVT. LTD-2003 (158) E.L.T. 545 (5.C.)

h) Indo Swiss Embroidery Industries Ltd vs CCE, Vapi-2017 (356) E.L.T. 226 (Bom.)

2.20 The Appellant further submitted that this question of levy of "Interest" has been elaborately considered and finally decided in the Applicant's own case for similar Imports at Mundra, INCH and Ahmedabad by the Hon'ble CESTAT, Ahmedabad vide the Final Order No. 11628-11630/2024 dated 23.07.2024 The Hon'ble CESTAT Ahmedabad considering various provisions of Customs Tariff Act 1975 including section 3(7) and 3(12) has given their clear finding in para 5.10 and 5.20 in Final Order dt. 23-07-2024

2.21 The Appellant further submitted that the Hon'ble CESTAT's Final Order, set aside demands for "interest", Redemption Fine and Penalty imposed on the Appellant. This interest [paid under protest) claimed as Refund, after the Hon'ble CESTAT'S Final Order dated 23-07-2024, may be allowed as consequential relief to CPFL, in the interest of justice, in the facts of this case. The field officers in Customs Port are bound to follow the judicial indiscipline and unreservedly Implement orders of higher authorities. CBEC Circulars also reiterate this view and repeatedly clarified that unnecessary burden on exchequer towards interest is direct result of inaction on the part of Revenue authorities in implementing orders of Tribunal or appellate forums. Once, Revenue loses its right to retain sums of assessee, as per order of appellate forums, Revenue must refund amount back to assessee first, if there is no stay obtained by the Revenue from competent

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higher forums. The issue is settled and no more Res-integra. There is no stay against the Hon'ble CESTAT's Order dated 23-07-2024 from higher Competent Courts like the Hon'ble Gujarat High Court or the Hon'ble Supreme Court. Appellant in this connection, also brought to notice that in a similar Refund Application filed at Air Cargo Complex, Ahmedabad after CESTAT Order dated 23-07-2024, Assistant Commissioner ACC, Ahmedabad falling under jurisdiction of Principal Commissioner of Customs, Ahmedabad, who had passed the 0-1-0 dated 18-04-2024 confirming demand of duty with Interest and appropriated the same. However, after CESTAT Order dated 23-07-2024, Refund claim for Rs. 4,73,657/- as a "Consequential benefit" has been allowed noting the fact that the Chief Commissioner of Customs, Ahmedabad has given concurrence to file Appeal against the Hon'ble CESTAT's Order dated 23-07-2024 and filling the Appeal is under process. Assistant Commissioner of Customs, Air Cargo Complex, Ahmedabad by O-I-0 No. 80/AC/ACC/010/Chiripal Polyfilms/2024-25 allowed Refund of "Interest" with A/C payee cheque for Rs. 4,73,657/-. [Annexure-IX]. Similarly, Appellant bring to your notice that in Refund Application filed by CPFL at Mundra Port, Deputy Commissioner of Customs, Mundra has sanctioned also the cash Refund of Rs. 1,43,38,992/- vide 0-1-0 No. MCH/178/ARK/DC/REF/2024-25 dated 12-11-2024 which is credited to Appellant's Account for Rs. 1,43,38,992/- [Annexure-X]. Similarly, Appellant bring to your notice that in a similar Refund Application filed by CPFL at JNCH Port, Assistant Commissioner of Customs, INCH has sanctioned Refund of Rs. 1,13,48,980/- by 0-1-0 No. 877/2024-25/AM(1)-NS-III dated 18-12-2024. [Annexure-XI]

2.22 The Appellant further submitted that it is requested to consider the above mentioned 3 Refund Orders dated 24-10-2024, 12-11-2024 and 18-12-2024 enclosed as the Annexure-IX, Annexure-X, and Annexure-XI respectively clearly shows that the said 3 0-1-0 have already allowed the consequential Refund, after the Hon'ble CESTAT's Order dated 23-07-2024, in the present Appellant's own case, in the very same issue of levy of "Interest" on delayed payment of duty [IGST] levied under section the 3(7) or 3(12) of Customs Tariff Act, 1975, for allowing such consequential benefits claimed by the Appellant CPFL at Jamnagar please. Therefore, considering these 3 O-I-O dated 24-10-2024, 12-11-2024 and 18-12-2024, Appellant's Appeal against impugned O-I-O No. 65/DC/RD/2024-25 dated 05-12-2024 Issued by the Deputy Commissioner of Customs, Jamnagar may to be allowed. Appellant submit and reiterate that the Hon'ble CESTAT Ahmedabad had heard department on merits of levy of "Interest" in such cases. The appeals are allowed with consequential reliefs. The "interest" Amount is also paid "under protest". There was no provision, at the material

time, under section 3(7) or 3(12) of Customs Tariff Act 1975 prior to 16-08-2024 for any such recovery of interest on short paid, non paid IGST in cases of imports and Article 265 of the Constitution of India, stipulates that No tax shall be levied or collected except by authority of law. Thus, amount of Interest deposited by Appellant on 31-08-2023 for total 22 Bill of Entry and retained by Customs authority at Jamnagar is also not justified and the amount interest requires to be returned to the Appellant. Appellant submit that since "Interest Amount has been deposited "Under Protest", which was not required to be paid, it is required to be refunded to Appellant as the consequential relief allowed as per the Hon'ble CESTAT Order dt. 23-07-2024. Appellant submit that the Adjudicating authority at Jamnagar have not correctly appreciated the Advance Authorization Scheme, which was framed by the Government of India under the Foreign Trade Policy (FTP 2015-20). Advance Authorization Scheme allowed duty free import of inputs, which are physically incorporated in export products. In addition to any inputs, packaging material, fuel, oil, catalyst which are consumed/utilized in the process of production of export product, were also allowed. DGFT provided a sector-wise list of Standard Input-Output Norms (SION) under which the exporters may choose to apply. Advance Authorization Scheme is a tread facilitation scheme for sooth Import & export of manufactured goods. Appellant submit that the goods imported were assessed by the proper Custom officers in charge of RSEZ, Jamnagar, and the goods imported have been allowed to be cleared for home consumption by such proper Custom officers on being satisfied that the goods were not prohibited for import and the goods in question had been cleared on final assessment of the relevant Bill of Entry. Therefore, if the duty/interest was payable at the time of import, by denying benefits of Notification, then also, for the recovery of duty/interest, if any, Show Cause Notice ought to have been issued within normal time limit permitted under section 28 of the Customs Act 1962. However, if the Appellant chooses to deposit duty, if any, subsequently on their own, without even SCN, in a Revenue Neutral situation of availability of Credit of duty, Appellant cannot be saddled to pay additional liability of "Interest", which was neither payable in such situation nor payable as provisions of Section 3(7) or 3(12) of the Customs Tariff Act 1975 in any case.

2.23 The Appellant further submitted that the subsequent "Re-assessment Order" in the 22 Bill of Entry on 31-08-2023 is bad in law and not sustainable which requires to be set aside or modified, in order to allow eligible Refund claimed by the Appellant after the Hon'ble CESTAT's Final Order dated 23-07-2024. Thus, 0-1-0 dated 05-12-2024 by DC Customs Jamnagar rejecting the Refund claim deserves to be set aside allowing Appeal. The Appellant further

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submitted that they have been made to suffer undue financial hardship on such Re-Assessment order and payment of huge excess differential duty, which was available as credit. However, Appellant is made to suffer undue financial hardship on such Interest amount of Rs. 1,45,37,545/-deposited on 31-08-2023 for the imports made in year 2018 for no fault on their part, when there was no provision under the Section 3(7) or 3(12) of the Customs Tariff Act 1975 and further that Article 265 of the Constitution of India stipulated not to recover any duty/interest without the Authority of the law. Appellant deposited duty, as it was authorised by section 3(7) ibid and it was available as credit to Appellant as manufacturer. But, for the recovery of interest on duty, there was no provision u/s 3(7) or 3(12) ibid, as held by the Hon'ble CESTAT, Ahmedabad vide its Final Order dated 23-07-2024, Interest amount deposited by the Appellant on 31-08-2023, could not be retained by the Customs department and ought to have been returned to the Appellant. Hence, the O-I-O dated 05-12-2024 deserves to be set aside forthwith, in the facts of this case.

2.25 The Appellant further submitted that they had not deposited duty on their self assessment on import against the Advance Authorisation Scheme, which was accepted by the proper customs officers in RSEZ and clearance were allowed on final Assessment. But, Appellant is compelled to pay differential duty Rs. 1,93,97,795/- and amount of Interest Rs. 1,45,37,545/- as customs has not accepted duty on Re-assessment without recovery of "Interest" which was even not payable or recoverable. Therefore, this 0-1-0 dated 05-12-2024 rejecting refund on unjustified or undue or unsustainable reasons, deserves to be set aside, allowing refund of the Interest amount of Rs. 1,45,37,545/ deposited on 31-08-2023 in respect of 22 Bill of Entry, in this case. Appellant submitted that it is clear that for 22 Bill of Entry in question, duty & Interest was paid on 31-08-2023 have been Re-Assessed by the proper officer on 31-08-2023 when interest would not be leviable. Revenue's attempt to recover interest amount cannot be sustained. Consequently, the Appeal deserves to be allowed with consequential relief of Refund of Interest deposited. Appellant submit that all the goods imported under AA scheme under Bill of Entry in question have been actually utilised for manufacture of final products, which were exported. The principle of import first and export subsequently may not have been followed in all imports made under the Advance Authorisation Scheme, and therefore we may be allegedly liable to make good the above referred amount as IGST foregone on part quantities of goods imported under Authorizations; but all the goods imported under the AA scheme were actually utilised for manufacture of the final products which were exported upon following normal procedure of filing shipping bills, export invoices etc. Therefore, there is no breach of the fundamental

condition of the AA scheme about utilisation of the goods imported under the Scheme for manufacture of final products exported, and the physical incorporation of the goods imported under the scheme in the export goods. There is no breach or violation of the core condition of the AA Scheme for any of the goods imported under the Bill of Entry, because all goods imported duty free have been used for production of the final/finished goods which were exported by Appellant and request to consider the above referred position while determining as to what was duty liable to be made good in this case. Appellant also request to consider that the fundamental condition of the Advance Authorisation scheme is satisfied on import under Advance Authorisation scheme in this case.

2.26 The Appellant further submitted that The Appellant submit that recovery of interest under Section 28AA of Customs Act 1962 is an action de-hors of any merit in the settled law. The present one is not a case of any duty not levied or short levied and hence Section 28AA of Customs Act 1962 is also not applicable. Since goods imported were correctly assessed, and duties leviable is paid on Re assessment, there is no such non-levy or short levy as regards importation of goods in question, Interest liability would anse only when any duty was liable to be paid as determined under Section 28 of Customs Act 1962, was not paid or short paid and therefore Section 28AA for interest is not applicable in the present case. The Appellant further submitted that as explained at the very beginning of this case that the demand in the present case is of IGST leviable under section 3(7) of Customs Tariff Act 1975, which is separate levy independent of customs duty leviable under section 12 of the Customs Act 1962. It may be appreciated that for recovery of IGST on import of goods, provision is made under section 3(7) of Customs Tariff Act 1975. However, for the late payment of IGST under section 3(7) of Customs Tariff Act 1975, but, no such provision made for recovery or charging of interest u/s 3(12) ibid. Interest is a separate levy, and a charging section or a charging provision for interest must be present in the statute levying the tax in case of late payment of such tax by an assessee is the mandate of settled law established by the provision of law and decisions of various courts pronounced. Appellant submit that there is no charging provision for levying and collecting interest in case of late payment of IGST leviable under Section 3(7) of Customs Tariff Act 1975; and therefore charge of interest is unsustainable and unauthorized in facts of this case. In the case of J.K. Synthetics Ltd. v/s Commercial Taxes Officers (1994) 4 Supreme Court Cases 276 has held that "7. The proposition may be derived from the above: interest can be levied and charged on delayed payment of tax only if the statute that levies and charges the tax makes a substantive provision in this behalf."

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2.27 The Appellant further submitted that without prejudice to our rights and contentions that there is no case for alleged non-payment or short payment of duty in this case and that Appellant was not liable for paying any interest on any short/non-paid duty, Appellant have made payment of duties foregone with interest on imports by 22 Bill of Entry in question, as per Circular No.16/2023-Cus dated 07-06-2023 to show bonafide as a law abiding assessee, and Appellant do not indulge in undue and uncalled for disputes with concerned Authorities of the departments. Details of payments made on 31-08-2023 is on records, after CBIC Circular dated 07-06-2023 in 22 Bill of Entry of RSEZ, Jamnagar. Appellant also request to take into consideration the above factors in this connection in this CA-1 Appeal to allow appeal holding that Interest not payable was deposited on 31-08-2023 cannot be retained by Customs and requires to be refunded to the Appellant. The Appellant submitted that the true nature, meaning and scope of the said "pre-import condition" was not clear at the time of import in 2018 under Bill of Entry and exemption allowed under Notification No. 18/2015-Cus issued under Section 25(1) of Customs Act 1962 and that Custom officers in charge of RSEZ, Jamnagar were unaware about Pre-Import condition as well as about its true scope and coverage. The exemption under the notification was allowed for goods imported against valid Authorizations because such claims were allowed to similarly situated industries in India, and the claim for such exemption was allowed by proper Custom officers because such claims were being allowed when goods were imported against valid Authorizations in India all over the country for a long time. The trade as well as Revenue officers, on implementation of GST law w.e.f. 01-07-2017 were made to follow many new notification introduced in the Taxation pre-import condition is complied with for such quantities of goods imported under exemption. However, Appellant have deposited the duty demand with interest as raised in Re-assessment is also paid, Consequently, only claim survives is that of our right for getting back the amount of interest deposited by us; because no interest is liable to be paid in law, as well as in the facts of this case. The entire amount of interest deposited by us is liable to be returned to us, and this is the only issue that survives for adjudication in this case. The Appellant submitted that since there is no charging provision for levying and collecting interest in case of late payment of IGST leviable under Section 3(7) of the Customs Tariff Act 1975, the amount of interest recovered/collected by Revenue is unsustainable and unauthorised in this case. Therefore the same deserves to be refunded to Appellant. The interest recovered in this case deserves to be returned Immediately in interest of justice. Appellant submit that section 28AA of Customs Act is not applicable in this case prior to 16-08-2024. In the case of Imports under Advance Authorisation Scheme for the

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period from 13-10-2017 to 09-01-2019, No interest could have been demanded or recovered or retained from 31-08-2023 without Issuance of regular Show Cause Notice by the Customs authorities of Government from Appellant in respect of the levy off the IGST under section 3(7) of Customs Tariff Act 1975.

2.28 The Appellant further submitted that they reserve the right to add, amend, modify or make any other submission at the time of hearing of this appeal and seeks to consider submissions and allow appeal with consequential benefits. system, were also not aware about such "pre-import condition" inserted w.e.f. 13.10.2017 for allowing exemption by virtue of Notification No.79/2017-Cus., and therefore practice of allowing exemption for goods imported against valid Authorizations on final assessment of duty also continued during relevant period in question. It was thus a normal routine action allowing exemption by the proper Custom officers. Kindly appreciate that in situation of Revenue Neutrality, burden of payment of "Interest" additionally would be Unreasonable and also against the Government of India's policy of "Ease of doing business". Appellant request you to kindly take into consideration our difficulties as of now and set aside the liabilities of interest. It is requested that your kind intervention is solicited in this connection. Appellant have deposited the duty demand raised in Re-assessment. Appellant have also deposited interest on the differential duties. Consequently, only claim of Appellant's right for getting back/refund of the interest amount deposited by Appellant; because no interest is liable to be paid in law, as well as in the facts of this case. The entire amount of interest deposited by Appellant deserves to be returned, and this is the only issue that survives in this case. It may kindly be appreciated that the procedure provided by the Government of India vide Circular No.16/2023-Cus dated 07-06-2023, for re-assessing the past Bills of Entry again is required to be followed by Appellant is for those quantities of goods which were imported under exemption where pre-Import condition was not fully satisfied. However, when import was first and the exports of finished goods against that Advance Authorization were made subsequently, procedure of re-assessment of B/E would not be called for, because pre-Import condition is complied with for such quantities of goods imported under exemption. However, Appellant have deposited the duty demand with interest as raised in Re-assessment is also paid. Consequently, only claim survives is that of our right for getting back the amount of interest deposited by us; because no interest is liable to be paid in law, as well as in the facts of this case. The entire amount of interest deposited by us is liable to be returned to us, and this is the only issue that survives for adjudication in this case.

2.29 The Appellant further submitted that since there is no charging provision for levying and collecting interest in case of late payment of IGST leviable under

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Section 3(7) of the Customs Tariff Act 1975, the amount of interest recovered/collected by Revenue is unsustainable and unauthorised in this case. Therefore, the same deserves to be refunded to Appellant. The interest recovered in this case deserves to be returned immediately in interest of justice. Appellant submit that section 28AA of Customs Act is not applicable in this case prior to 16-08-2024. In the case of Imports under Advance Authorisation Scheme for the period from 13-10-2017 to 09-01-2019, No interest could have been demanded or recovered or retained from 31-08-2023 without issuance of regular Show Cause Notice by the Customs authorities of Government from Appellant in respect of the levy off the IGST under section 3(7) of Customs Tariff Act 1975. Appellant reserve his right to add, amend, modify or make any other submission at the time of hearing of this appeal and seeks to consider submissions and allow appeal with consequential benefits.

Thus, based on the above, the Appellant prayed to

(i) Set aside the OIO No. 65/DC/RD/2024-25 dated 05.12.2024 or

(ii) Allow appeal & order directions to release of refund claim of "interest' Rs. 1,45,37,545/- under Section 27 of Customs Act, 1962 which was not payable as per CESTAT order dated 23.07.2024.

3. PERSONAL HEARING:

Opportunity of personal hearing was granted to the Appellant. Shri P. P. Jadeja, authorized representative of Appellant. Shri Purvang Talati with and Shri Rockey Singh both executives of the Appellant appeared for personal hearing in virtual mode on 21.05.2026 wherein he re-iterated written submission dated 16.05.2026 filed during the appeal. They requested to set aside the OIO dated 05.12.2024 and to allow the appeal. They also submitted chronology of the important dates and events vide letter dated 22.05.2026.

4. DISCUSSION AND FINDINGS:

4.1 The date of the impugned order is 05.12.2024 and the date of filing appeal by the Appellant is 01.01.2025. Thus, the appeal has been filed within the period of sixty days prescribed under Section 128 of the Customs Act, 1962 and is accordingly taken up for decision on merits.

4.2. I find that the matter pertains to the issue of refund therefore, there is no question of pre-deposit of 7.5% of duty demanded as prescribed under Section 129E of the Customs Act, 1962.

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4.3 The Customs Division, Jamnagar was requested for submission of comments of the appeal filed by the Appellant vide letter dated 10.06.2025 but no comments have been received by this office till date therefore, I am taking up the issue for decision based on the facts of the case and documentary evidence available on record.

4.4 I have carefully gone through the case records, show cause notice and corresponding order passed by the adjudicating authority and the defense put forth by the Appellants in their appeal. The limited issue to be decided is as under :

(i) Whether the rejection of the refund claim by the Adjudicating Authority is vitiated by a violation of the principles of Natural Justice due to the non-issuance of a formal Show Cause Notice (SCN).

(ii) Whether the refund claim filed under Section 27 of the Customs Act, 1962, is legally maintainable while the substantive appeals against the underlying re-assessments of the 22 Bills of Entry remain sub-judice before the Appellate Authority.

(iii) Whether the levy of interest on the delayed payment of Integrated Goods and Services Tax (IGST) lacked statutory backing prior to the amendment of Section 3(12) of the Customs Tariff Act, 1975, with effect from 16.08.2024.

(iv) Whether the Adjudicating Authority committed an error of judicial indiscipline by not granting the refund purely based on a CESTAT Final Order issued in a parallel proceeding pertaining to different Bills of Entry.

4.5 The Appellant vide letter dated 22.05.2026 submitted the chorology of the important events in the case which is reproduced below.

Date	Event
January, 2009 onwards	Appellant is a Registered importer, manufacturer & Exporter, exporting the manufactured goods since year 2009. Appellant has been continuing their business activities of import, manufacture and export of the goods in accordance with law to the best of its abilities.
26-04-2018	Advance Authorization No 0810142447 Dt. 26.04.2018 issued by DGFT to Appellant, allowed the duty Exemptions in Imports.
25-07 -2018 to 17 -10-2418	For Advance Authorisation No 0810142447 dtd.26.04.2018 duty exemption under 22 Bills of Entry was allowed on Final Assessment. A list of 22 Bill of Entry is enclosed as Annexure-1. Appellant had not deposited duty on imports. Such exemption was not objected or disputed by the specified officers [Customs Officers] at RSEZ, Jamnagar. There is no SCN issued in this case.

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06-02-2018	DRI, Kolkata had raised a dispute in imports about non-compliance of pre-import condition in Import during 13-10-2017 to 09-01-2019.
27-11-2018	Appellant filed SCA No. 18097/2018 before the Hon'ble Gujarat High Court, challenged vires and validity of the Pre-Import Condition
04-02-2019	Hon'ble Gujarat High Court granted stay and allowed Appellant's SCA with Maxim Tubes co Pvt Ltd V/s. UOI- 2019 (368) ELT 337 (Guj). [Pages 43-63 in this Appeal]
28-04-2023	Union of India challenged judgment of the Gujarat High Court, before the Hon'ble Apex Court, wherein orders of Gujarat High Court are over ruled with directions in Para 75 by judgment of the Hon'ble Apex Court decision dated 28-04-2023, as reported in as union of India vs Cosmo Films Ltd - 2023 (385) E.L.T. 66 (S.C.) and in (2023) 5 Centax 286 (S.C.). [Pages 64-79 in this Appeal] Revenue was directed to permit all importers to claim refund or input credit, whichever is applicable
07.06.2023	CBIC Circular No. 16/2023-Cus., dated 7-6-2023 clarified to make payment of duty with Applicable Interest and further clarified that in all similar cases Bills of Entry may be re-called and re-assessed for levy of the IGST
09-08-2023	Appellant vide letter dated 09-08-2023 approached the Specified Officers at RSEZ, Jamnagar for the Re-assessment of 22 Bill of Entry
14-08-2023	As RSEZ, Jamnagar was non EDI Customs Station, RSEZ vide its letter dated 14-08-2023 requested M/s NSDL, Mumbai under intimation to Appellant to enable importers to pay IGST.
	RSEZ, Jamnagar informed Appellant to work out amount to be paid and to obtain Bank DD from SBI, Jamnagar for amount to be paid.
16.08.2023	Appellant vide its letter dated 16-08-2023 informed specified officers that they will pay amount of "Interest" on duty "under protest".
29-08-2023	Appellant obtained Bank DD from SBI on 29-08-2023 and gave it to officers in RSEZ, Jamnagar with TR-6 Challan
31-08-2023	Bank DD dt. 29-08-2023 and TR-6 Challan No. 1820 dt. 31-08-2023 was deposited in State Bank of India on 31-08-2023 by RSEZ Authorities towards amount of duty with interest for Re-assessment of 22 Bill of Entry. Appellant has deposited of duty Rs. 1,93,97,795/- and "Interest" of Rs. 1,45,37,545/- in respect of 22 Bills of Entry. Annexure-II. [Appeal page 112 to 116]
	Appellant had interim stay from Hon'ble Gujarat High court against such payment till issue was finally decided by the Hon'ble supreme court on 28- 04-2023. Appellant had not deposited any duty or Interest till 31-08-2023.
25-01-2024	Application dt. 25-01-2024 u/s 17(5) to RSEZ to issue speaking Order in 22 Bill of Entry [Appeal page 140 to 142]
	Application dt. 25-01-2024 u/s 149 of Customs Act 1962 to RSEZ for amending 22 Bill of Entry [Appeal page 143 to 145]
	Application dt. 25-01-2024 to RSEZ, Jamnagar to issue certified copy of the said 22 Bill of Entry [Appeal page 146 to 148]
13-03-2024	RSEZ Letter dated 13-03-2024 provided certified copies of 22 B/E , in question. [Appeal page 117 to 139]



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01-04-2024 to 31-12-2024	Appellant filed 22 CA-1 Appeals on 01-04-2024 . These appeals were filed to challenge "Re-assessment of duty" wherein payment of Interest of Rs. 1,45,37,545/- made on 31-08-2023 under protest for the said 22 Bills of Entry was challenged. These appeals were rejected vide O-I-A No. JMN-CUSTM-OOO-APP-463 to 484-2024-25 dated 31-12-2024, passed by Commissioner of Customs(Appeals), Ahmedabad, on time limitation, without going into merits of case. Appellant had sought directions to modify 22 Bill of Entry, where Appellant had paid amount of Interest "under Protest".
27-05-2024	Application dt. 27-05-2024 for refund was filed and RSEZ's reply dated 18-06-2024 saying that Application dt. 27-05-2024 filed was Pre-mature. [Annexure-IV and Appeal pages 149 - 154]
23.07.2024	In Appellant's own case, for the similar imports under AA at Mundra, JNCH and Ahmedabad, the Hon'ble CESTAT Ahmedabad's Final Order No.11628-11630/2024 dated 23-07-2024, holding that interest is not payable, R/F and Penalty are not sustainable. [Page 155–187]
23-08-2024	Appellant's Refund Application also forwarded by Speed Post dated 23-08-2024 and copy thereof also sent on 30-08-2024 by email.
04-09-2024	RSEZ, Jamnagar by its letter dated 04-09-2024 forwarded Refund Application by to DC, Customs(Refund), Division, Jamnagar.
25-10-2024	letter No. CUS/RFD/RD/541/2024-Jamnagar dated 25-10-2024 to clarify 3 queries along with its reply submitted on 26-11-2024.
05-12-2024	The impugned O-I-O No. 65/DC/RD/2024-25 dated 05-12-2024 by Deputy Commissioner, Customs, Jamnagar [rejected Refund claim]
01-01-2025	Appellant filed statutory CA-1 Appeal No. S/49-450/CUS/JMN/2024-25 and Intimation of a virtual PH fixed on 21.05.2026. [Present Appeal which is pending consideration & disposal].
04-02-2025	The O-I-A dated 31-12-2024 passed by the then Commissioner of Customs(Appeals), Ahmedabad was challenged by Appellant in CETAT, A'bad & Appeal No C/10206/2025-DB filed on 04-02-2025.
09-04-2025	Issue of "No interest liability" is decided in similar case of importer M/s A. R. Sulphonates Pvt Ltd vs UOI-(2025) 29 Centax 212 (Bom) = 2025 (393) E.L.T. 246 (Bom.)= 2025 (4) TMI 578 - Bombay HC in addition to Appellant's own case by the Hon'ble CESTAT's Final Order dt. 23-07-2024.
12.08.2025	The Hon'ble CESTAT, Ahmedabad vide Final Order No. 10643/2025 dated 12-08-2025 in Appeal No C/10206/2025-DB decided the case. The Hon'ble CESTAT, Ahmedabad, While allowing appeal on the issue on fact that date of receipt of the Re-assessed Bill of Entry was on 16-03-2024 as date of communication of Order u/s 153 of Customs Act 1962.
	The Hon'ble CESTAT has remanded the matter to give a reasoned speaking order in light of case laws on the subject. • The CA-1 appeals filed on 01-04-2024 were held to be filed within time limit of 60 days. • The Hon'ble CESTAT has remanded the matter to give a reasoned speaking order in light of case laws on the subject.
02-09-2025	Under O-I-A No. JMN-CUSTM-000-APP-273 to 294-2025-26 dated 02-09-2025, wherein it has been held as under :-. • interest cannot be levied on the IGST in the absence of any enabling provision under the Customs Tariff Act 1975. Consequently, the interest recovered in the present case is

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	without authority of law and cannot be retained by the Department in terms of Article 265 of the constitution of India; it is liable to be returned/refunded to the Appellant. Accordingly, the impugned Re-assessment orders for such recovered Interest on 31-08-2023 are unsustainable in law and, therefore, its recovery of such Interest is liable to be set aside. • Set aside Re-assessment orders to the extent they have recovered interest on 31-08-2023 and modify 22 Bills of Entry u/s 149 of Customs Act 1962, with directions to proper officers to allow consequential relief to Appellant as refund for amount of "Interest" Rs. 1,45,37,545/-, deposited on 31-08-2023, which was not payable and paid on 31-08-2023 for 22 Bills of Entry.
23.12.2025	O-I-O No. 39/DC/RD/2025-26 dated 23-12-2025 issued by DC, Customs Division, Jamnagar allowed Refund of Rs. 1,45,37,545/-
21-05-2026	Intimation of a virtual PH fixed on 21.05.2026 in the Customs CA-1 Appeal No. S/49-450/CUS/JMN/2024-25 filed by Appellant

Thus, from the above chronology of events it can be seen that the Appellant has received the refund of Rs. 1,45,37,545/- vide 39/DC/RD/2025-26 dated 23.12.2025 issued Deputy Commissioner, Customs Division, Jamnagar and the same is available on record also. The details of Bills of Entry and applicable refund amount in each Bill of Entry is tabulated below.

Sr.No.	Bill of Entry No.	Bill of Entry Date	IGST @18%	Interest
1	2010638	25.07.2018	829570	635474
2	2010639	25.07.2018	829570	635474
3	2010640	25.07.2018	1106094	847298
4	2010642	25.07.2018	1106094	847298
5	2010643	25.07.2018	1106094	847298
6	2010641	25.07.2018	553047	423649
7	2011160	06.08.2018	1097189	835066
8	2011966	23.08.2018	836889	631106
9	2011965	23.08.2018	836889	631106
10	2012828	07.09.2018	855407	639798
11	2012827	07.09.2018	855407	639798
12	2012984	10.09.2018	1140543	851657
13	2012985	10.09.2018	855407	638743
14	2013114	12.08.2018	855407	638743
15	2013157	20.09.2018	855407	638743
16	2013554	20.09.2018	200532	148915
17	2015175	17.10.2018	391304	286241
18	2015171	17.10.2018	1173911	858724
19	2015170	17.10.2018	1173911	858724

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20	2015172	17.10.2018	1173911	858724
21	2015173	17.10.2018	782607	572483
22	2015174	17.10.2018	782607	572483
Total			**19397795**	**14537545**

Thus, the main plea of the Appellant i.e. release of refund claim of Rs. 1,45,37,545/- stands addressed, therefore, there is no discussion and findings required to be given in the case.

5. In view of the above findings, the present appeal filed by the Appellant is dismissed as having become infructuous.

Vishwajeet Singh
22.10.2026.

(Vishwajeet Singh)
Commissioner (Appeals),
Customs, Ahmedabad

F. No. S/49-450/CUS/JMN/ 2024-25

By Registered post A.D/Email

M/s Chiripal Poly Films Ltd., 3rd & 4tgh Floor, Chirirplal House, Shivranjani Cross Rods, Satellite, Ahmedabad, Gujarat-380012

Copy to,

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad. (email: ccoahm-guj@nic.in).
2. The Commissioner, Customs (Prev), Jamnagar.
3. The Deputy/Assistant Commissioner, Custom Division, Jamnagar.
4. Guard File