



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 – 20260171MN000000C4A3

क	फ़ाइल संख्या FILE NO.	S/49-273/CUS/AHD/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) :	AHD-CUSTM-000-APP-501-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	01.01.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	170/ADC/SRV/O&A/2024-25 dt. 13.11.2024 passed by the Additional Commissioner, Customs, Ahmedabad .
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	01.01.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s Savvy ATS Reality LLP, B 900, Shapath IV, Opp. Karnavati Club, S.G.Highway, Ahmedabad-380 015, 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 हैं.

	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :
(क)	बैगज के रूप में आयातित कोई माल.
(a)	any goods imported on baggage
(ख)	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो.
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.
(ग)	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी.
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
.3	पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :
	The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :
(क)	कोर्ट फी एक्ट, 1870 के मद सं. 6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए.
(a)	4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870.
(ख)	सम्बद्ध दस्तावेजों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. 200/- (रुपए दो सौ मात्र) या रु.1000/- (रुपए एक हजार मात्र), जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां. यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रूपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु.200/- और यदि एक लाख से अधिक हो तो फीस के रूप में रु.1000/-
(d)	The duplicate copy of the T.R.6 challan evidencing payment of Rs.200/- (Rupees two Hundred only) or Rs.1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-.
4.	मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं

	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :	
	सीमाशुल्क, 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	2 nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-	
	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -	
क)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हज़ार रूपए.	
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;	
ख)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच हज़ार रूपए	
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;	
ग)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हज़ार रूपए.	
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees	
घ)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के ₹10 अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के ₹10 अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा ।	
	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.	
6.	उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.	
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal-	
	(a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or	
	(b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.	



Order-In-Appeal

M/s Savvy ATS Reality LLP, B 900, Shapath IV, Opp. Karnavati Club, S.G.Highway, Ahmedabad-380 015, Gujarat (hereinafter referred to as "the Appellant") have filed the present appeal against the Order-In-Original No.: 170/ADC/SRV/O&A/2024-25 dt. 13.11.2024 (herein after referred to as "the impugned order") passed by the Additional Commissioner of Customs, Customs, Ahmedabad (herein after referred to as "the "adjudicating authority").

2. Facts of the case, in brief, are that the appellant has supplied TMT Bars and Steel Structures falling under Chapter 72 to an entities registered in GIFT –SEZ (Special Economic Zone). The subject goods were attracting export duty @15% during the period of 22.05.2022 to 18.11.2022 as per the provisions of Notification No.28/2022-Customs and 29/2022-Custom, both dated 21.5.2022. As the appellant had not paid export duty on the supplies made to the SEZ unit, a Show Cause Notice dated 05.06.2024 came to be issued by the Additional Commissioner of Customs, Customs, Ahmedabad proposing demand of export duty amounting to Rs. 35,56,398/-, along with interest under the provisions of Sections 28(1) and 28AA of the Customs Act, 1962, and also proposing imposition of penalty under Section 114A of the Customs Act, 1962. Vide impugned order dated 13.11.2024, the said demand, interest and penalty have been confirmed by the adjudicating authority.

3. Being aggrieved with the impugned order passed by the adjudicating authority, the Appellant have filed the present appeal on 01.01.2025. The appellant has also filed additional submission on 24.12.2025. The appellant inter-alia, raised various contentions and filed detailed submissions as given below in support of their claim:

"3.1 Levy of Export Duty on supplies made from DTA to SEZ

The appellant submits that the central issue for consideration is whether export duty is leviable on goods supplied from the Domestic Tariff Area (DTA) to a Special Economic Zone (SEZ) Unit/Developer, by invoking the fifth proviso to Rule 27(1) of the SEZ Rules, 2006, inserted vide Notification dated 19.09.2018.

It is submitted that export duty under the Customs Act, 1962 can be levied only when goods are exported out of India, i.e., taken beyond the territorial waters of India. Section 12 of the Customs Act is the charging section and the term "export" is defined under Section 2(18) as "taking out of India to a place outside India". Both the DTA supplier and the SEZ Unit are located within the territory of India, and therefore, the essential taxable event for levy of export duty is absent.



The appellant submits that the definition of "export" under the SEZ Act, 2005 cannot be imported into the Customs Act, 1962 for the purpose of levy of export duty. It is a settled principle of law that definitions under one statute cannot be bodily lifted into another statute, especially when the charging provision of the latter is being invoked. Reliance is placed on the judgment of the Hon'ble Supreme Court in *Maheshwari Fish Seed Farm v. Tamil Nadu Electricity Board* (AIR 2004 SC 2341).

The SEZ Act, 2005 does not contain any charging provision for levy of export duty on supplies made from DTA to SEZ. The absence of such charging provision is significant, particularly when the erstwhile Section 76F of the Customs Act, which specifically levied export duty on DTA-SEZ supplies, was omitted w.e.f. 11.05.2007 and no corresponding provision was enacted thereafter.

The appellant submits that tax cannot be imposed by delegated legislation. The fifth proviso to Rule 27(1) of the SEZ Rules, 2006 seeks to levy export duty without any statutory backing in the parent Acts, and therefore, violates Article 265 of the Constitution of India. Levy of tax must be supported by authority of law and cannot be inferred or implied.

It is further submitted that the said fifth proviso to Rule 27(1) has already been struck down as *ultra vires* by the Hon'ble Andhra Pradesh High Court in *TUF Metallurgical Pvt. Ltd. v. Union of India* [(2025) 35 Centax 280 (A.P.)], thereby rendering the very basis of the demand unsustainable.

The appellant places reliance on binding judicial precedents including:

- *Essar Steel Ltd. v. Union of India* – 2010 (249) E.L.T. 3 (Guj.)
- *Advait Steel Rolling Mills Pvt. Ltd. v. Union of India* – 2012 (286) E.L.T. 535 (Mad.)
- *Tirupati Udyog Ltd. v. Union of India* – 2010 (7) TMI 768 (A.P.)

All of which consistently hold that export duty is not leviable on supplies made from DTA to SEZ. In view of the above, the appellant submits that no export duty is leviable on supplies made by the appellant from DTA to SEZ, and therefore, the demand is liable to be set aside.

3.2 FOB value to be treated as cum-duty price

Without prejudice to the above submissions, the appellant submits that even assuming (but not admitting) that export duty is payable, the FOB value declared by the appellant must be treated as cum-duty price.

The appellant did not recover export duty separately from the SEZ recipient. The entire consideration received is only the FOB value. As export duty is an indirect tax,

and its burden is ordinarily passed on to the buyer, in the absence of separate recovery, the FOB value necessarily includes the duty component.

Therefore, in terms of Section 14 of the Customs Act, 1962, the assessable value must be arrived at after excluding the duty element, and the export duty, if any, must be recalculated on a cum-duty basis.

3.3 Limitation – Extended period not invocable

The appellant submits that the supplies in question were made during the period August 2022 to November 2022, and the Show Cause Notice was issued only on 05.06.2024, invoking the extended period.

It is submitted that all relevant facts were fully within the knowledge of the department. Necessary documents and certificates were produced at the time of clearance and goods were allowed clearance after due verification by Customs officers. There was no suppression, misstatement, or concealment of facts.

The Hon'ble Supreme Court in *Pushpam Pharmaceuticals Co. v. CCE* [1995 Supp (3) SCC 462] has held that suppression must be wilful and deliberate with intent to evade duty, and mere omission or interpretation dispute does not amount to suppression.

The issue involved is purely interpretational and legal in nature, and therefore, the extended period of limitation is not invocable. Reliance is placed on:

- *Nizam Sugar Factory v. CCE* – 2008 (9) S.T.R. 314 (S.C.)
- *Continental Foundation Jt. Venture v. CCE* – 2007 (216) E.L.T. 177 (S.C.)
- *Cochin Minerals & Rutiles Ltd.* – 2010 (259) E.L.T. 182 (Ker.)

Accordingly, the demand for the extended period is time-barred and liable to be dropped.

3.4 Penalty not imposable

The appellant submits that the entire dispute relates to interpretation of law, and the appellant acted under a bona fide belief, supported by judicial precedents, that no export duty was payable on DTA–SEZ supplies.

There is no allegation or evidence of fraud, collusion, wilful misstatement, or intent to evade duty. All transactions were carried out transparently and with the knowledge of the department.



In absence of mens rea, the essential ingredients for imposition of penalty under the Customs Act are not satisfied. Therefore, no penalty is imposable on the appellant.

PERSONAL HEARING:

4. Personal hearing in the matter was held on 24.12.2025 in virtual mode. Shri Vipul Khandhar, CA and Authorised representative, appeared for hearing on behalf of the Appellant. He reiterated the submissions made in the appeal memorandum. He submitted additional submission dt. 24.12.2025, which is already mentioned at para 3 above.

DISCUSSION & FINDINGS:

5. Before going into the merits of the case, I find that in the Form No. C.A.-1, the appellant has shown the date of communication of the impugned order dated 13.11.2024, as "13.11.2024". The appeal has been received in this office on 01.01.2025. Thus, this appeal has been filed within the normal period of 60 days, as prescribed for filing appeal under Section 128 of the Customs Act, 1962.

5.1 The appellant has submitted copy of TR 6 Challan dt. 30.12.2024 showing payment of Rs. 2,66,730/- as pre deposit calculated 7.5% of the duty amount with respect to the impugned order and for filing appeal under the provisions of Section 129E of the Customs Act, 1962. As the appeal has been filed within the time-limit and complies with the requirement of Section 129E of the Customs Act, 1962, the appeals has been admitted and being taken up for disposal on merits.

5.2 One set of Appeal memorandum and related appeal papers received from the appellant forwarded to the adjudicating authority i.e the Additional Commissioner, Customs, Ahmedabad vide letter dt. 25.03.2025, but no reply thereof has been received. So, I proceed to decide the appeal on the basis of documents submitted by the appellant.

I have carefully gone through the impugned order, the appeal memorandum filed by the Appellant, as well as records of the case. The issues to be decided in the present appeal is whether the impugned order passed by the adjudicating authority confirming Export duty on the goods supplied by the appellant to SEZ Unit is leviable or not, in the facts and circumstances of the case, is legal and proper or otherwise.

6.1 In the present issue of export duty liability on the goods supplied to the SEZ unit by the DTA supplier, the Judgment dated 04.11.2009 in the case of **Essar Steel Limited and Adani Power Ltd. Vs. Union of India** [2010 (249) E.L.T. 3 (Guj.) = 2009

(11) TMI 141 - GUJARAT HIGH COURT], Hon'ble High Court of Gujarat is very relevant and important.

The Hon'ble High Court of Gujarat, in above judgement has held that the levy of export duty on the goods supplied from Domestic Tariff Area to Special Economic Zone is not justified; that the petitioners not to be called upon to pay export duty on movement of goods from DTA to SEZ units or developers. I note that Special Leave to Appeal (Civil) No. 5698 of 2010 with SLP (C) Nos. 6204, 6307, 7818, 7931, 9243 and 10118 of 2010 filed by Union of India against the aforesaid Judgment dated 04.11.2009 has been dismissed by Hon'ble Supreme Court on 12.07.2010 [Union of India v. Essar Steel Ltd. - 2010 (255) E.L.T. A115 (S.C.)]. However, the said Order dated 12.07.2010 has been recalled by Hon'ble Supreme Court vide Order dated **10.02.2020** reported as **Union of India Vs. Essar Steel India Ltd.** [2022 (380) ELT 403 (SC)] and the SLPs had been restored. Now, Hon'ble Supreme Court has decided this issue vide Order dated 28.08.2025, which has been reported as **Union of India Vs. Adani Power Ltd.** [(2025) 36 Centax 257 (S.C.)]. In the said latest Order, it has been observed and held by the Apex Court as under :

"4.3 Similarly, the third question has been considered by the High Court in paragraph 41.3 and after discussion, the answer to the said question has been given in paragraph 41.3.4 of the impugned judgment. Consequently, the High Court has held in paragraph 42 as under:

"42. In view of the above discussion and findings arrived at as well as conclusion drawn, the levy of export duty on goods supplied from the Domestic Tariff Area to the Special Economic Zone is not justified. The petitioners are, therefore, not to be called upon to pay export duty on movement of goods from Domestic Tariff Area to Special Economic Zone units or developments."

.....

"6. We find that the High Court has rightly arrived at the conclusions in the aforesaid paragraphs on a correct interpretation of the provisions of the aforesaid two Acts. In the circumstance, we do not find any reason to interfere with the impugned judgment. Hence, the appeals are dismissed.

7. On a conjoint reading of the aforesaid provisions, we find that Section 12 of the Customs Act, 1962 is the charging Section. However, under Section 26 of the SEZ Act, power is reserved to grant an exemption or a concession if under the provisions of the Customs Act, 1962, a duty is leviable as per the charging Sections.



(Handwritten signature)

8. It is also necessary to observe as submitted by the learned senior counsel for the respondent(s) that the Madras High Court as well as the Andhra Pradesh High Court have also taken a similar view as discussed in the aforesaid impugned judgment. In the circumstances, all appeals arising therefrom are also dismissed."

6.2 However, I find that the above Order/Judgment relates to the period prior to the amendment of Rule 27 of the SEZ Rules, 2006, vide Notification No. GSR 909(E) dated 19.09.2018 issued by the Ministry of Commerce and Industry. Vide the said amendment, fifth Proviso to Sub-Rule (1) of Rule 27 of the SEZ Rules, 2006, has been inserted, which is as under:

"Provided also that supplies from Domestic Tariff Area to Special Economic Zones shall attract export duty, in case, export duty is leviable on items attracting export duty."

Therefore, it has to be examined as to whether export duty in this case can be demanded wherein the period involved is from 22.05.2022 to 18.11.2022 i.e. after insertion of the above-mentioned Proviso from 19.09.2018.

6.3 I find that above-mentioned fifth Proviso to Sub-Rule 27(1) has been struck down by Hon'ble High Court of Andhra Pradesh in Writ Petition No. 15528 of 2024 in the case of **TUF Metallurgical Pvt. Ltd. vs. Union of India** reported as (2025) 35 Centax 280 (A.P.) [18-09-2025]. Para 27 of the said Order is as under:

"27. Be that as it may, we set aside the decision dated 26.04.2024 and hold that 5th proviso to sub-rule (1) of Rule 27 of the Special Economic Zone Rules, 2006, as ultra vires the Special Economic Zone Act, 2005 and is accordingly, struck down. This writ petition is accordingly allowed."

6.4 Further, I find that the even after insertion of the fifth Proviso in Sub-Rule 27(1) of the SEZ Rules, 2006, vide Notification dated 19.09.2018, there are no corresponding amendments in the provisions of Section 2(18) and 2(19) of the Customs Act, 1962, which define the terms "export" and "export goods" respectively. The said definitions are as under:

- (18) "export", with its grammatical variations and cognate expressions, means taking out of India to a place outside India;
- (19) "export goods" means any goods which are to be taken out of India to a place outside India;

6.5 Further, the definition of the term "India", as given in Section 2(27) ibid, says that "India" includes the territorial waters of India. In absence of amendment in any

statutory provision of the Customs Act, 1962, I am of view that Export duty cannot be levied merely by virtue of amendment in Rule 27(1) of the SEZ Rules, 2006 vide Notification dated 19.09.2018. Further, the said amendment, i.e. fifth Proviso to Rule 27(1), has already been held as ultra vires to the SEZ Act, 2005 and struck down by Hon'ble High Court of Andhra Pradesh in the case of **TUF Metallurgical Pvt. Ltd. vs. Union of India** (supra).

6.6 As regards the requirement of amendments in the provisions of the Customs Act, 1962, to levy export duty on supply of goods from DTA to SEZ, I also rely upon the Order dated 27.04.2012 of Hon'ble Madras High Court in the case of **Advait Steel Rolling Mills Pvt. Ltd. Vs. Union of India** [2012 (286) E.L.T. 535 (Mad.)]. The last Para of the said order is as follows (underline supplied):

"30. As there is no movement of goods from India to a place outside India, export duty cannot be levied. In fact, there is no 'export' of goods, as per the relevant provisions of the Customs Act, 1962. When the Special Economic Zones Act, 2005, is a separate Code, it would not be open to the respondents to levy duties of customs on goods moved from Domestic Tariff Areas into Special Economic Zones, as per the definition found in Section 2 of the Customs Act, 1962. Further, when the definition of term 'export' in Section 2(m) of the Special Economic Zones Act, 2005, is clear and specific, the definition of 'export', found in Section 2(18) of the Customs Act, 1962, cannot be made applicable for the levy of duties of customs on goods supplied from the Domestic Tariff Areas to the Special Economic Zones. As such, it would not be proper on the part of the respondents to levy duties of customs on goods supplied from the Domestic Tariff Areas to the units situated in the Special Economic Zones. If levy of duties of customs are to be made applicable to such goods it could only be by way of appropriate amendments introduced in the Customs Act, 1962, as well as in the Special Economic Zones Act, 2005. As such it is clear that it would not be open to the respondents to levy duties of customs on such goods, by way of Notifications or Circulars. The writ petitions are ordered accordingly. No costs."

6.7 In view of the above provisions and orders, the legal position prevailed during the period involved in the present appeal, does not authorise levy of export duty on supply of goods from DTA to SEZ Unit. Therefore, I am of the considered view that the decisions of Hon'ble Supreme Court in the case of **Union of India Vs. Adani Power Ltd.** [(2025) 36 Centax 257 (S.C.)] and Hon'ble High Court of Andhra Pradesh in the case of **TUF Metallurgical Pvt. Ltd. vs. Union of India** [(2025) 35 Centax 280 (A.P.)] are squarely applicable to the facts of the present appeal; and therefore, demand of export

duty on supply of the goods by the appellant to the SEZ unit is not sustainable. Therefore, the impugned order passed by the adjudicating authority is required to be set aside.

7. In view of the foregoing discussion, the statutory provisions and the binding judicial pronouncements, it is abundantly clear that during the period involved in the present appeal, there was no authority of law to levy export duty on supplies of goods from the Domestic Tariff Area to a Special Economic Zone unit. The issue now stands conclusively settled by the Hon'ble Supreme Court in *Union of India v. Adani Power Ltd.* [(2025) 36 Centax 257 (S.C.)] and further reinforced by the judgment of the Hon'ble Andhra Pradesh High Court in *TUF Metallurgical Pvt. Ltd. v. Union of India* [(2025) 35 Centax 280 (A.P.)], wherein the very basis for such levy has been held to be unsustainable in law. These decisions are squarely applicable to the facts of the present case and leave no scope for a contrary view. Accordingly, the demand of export duty raised on the appellant in respect of supplies made from DTA to the SEZ unit is without authority of law and cannot be sustained.

7.1 Accordingly, the Order-in-Original No. 170/ADC/SRV/O&A/24-25 dated 13.11.2024 passed by the Additional Commissioner of Customs, Customs, Ahmedabad is hereby set aside, and the appeal is allowed with consequential relief, in accordance with law.



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

Date: 01.01.2026

E.No. S/49-273/CUS/AHD/2024-25

By E-mail (As per Section 153(1)(c) of the Customs Act, 1962)

To
M/s Savvy ATS Reality LLP,
B 900, Shapath IV,
Opp. Karnavati Club, S.G.Highway,
Ahmedabad-380 015, Gujarat
(email: rocatssavvy@gmail.com)

Copy to:

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.
(email: ccoahm-guj@nic.in)
2. The Principal Commissioner of Customs, Custom House, Ahmedabad.
(email: cus-ahmd-guj@nic.in rra-customsahd@gov.in)
3. The Additional Commissioner of Customs (in-charge GIFT SEZ), Ahmedabad
(email: cus-ahmd-adj@gov.in)
4. The Specified Officer, Gift SEZ, Gandhinagar (email: so-giftsez@gov.in)
5. Shri. Vipul Khandhar, CA & Auhtorised Rep. (email: vipul.khandhar@gmail.com)
6. Guard File.