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-20260971MN000081306C

क	फ़ाइल संख्या **FILE NO.**	F.No. S/49-290& 293/CUS/JMN/DEC/2025-26
ख	अपीलआदेश संख्या **ORDER-IN-APPEAL No.** (सीमाशुल्क अधिनियम, 1962 की धारा 128 क के अंतर्गत) **(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):**	JMN-CUSTM-000-APP-79 to 80-2026-27
ग	पारितकर्ता **PASSED BY**	SHRI VISHWAJEET SINGH Commissioner of Customs (Appeals), AHMEDABAD
घ	दिनांक **DATE**	30.09.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक **ARISING OUT OF ORDER - IN - ORIGINAL NO.**	(i) 44/CUS-REF/2025-26 dated 10.11.2025 (ii)47/CUS-REF/2025-26 dated 01.12.2025.
च	अपील आदेश जारी करने की दिनांक **ORDER- IN-APPEAL ISSUED ON:**	30.09.2026
छ	अपीलकर्ता का नाम व पता **NAME AND ADDRESS OF THE APPELLANT/RESPONDENT:**	M/s. Khushboo India Pvt. Ltd. Plot No. V-6, Sosiya Ship Breaking Yard, Sosiya, P.O. Manar, Dist. Bhavnagar. (email: info@kirangroup.in)

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 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 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 (यथासंशोधित) में निर्धारित फीस, जोअन्य रसीद,फीस,दण्ड,जब्तीऔर विविध मदों के शीर्षके अधीन आता है में रु. 200/- (रूपए दो सौ मात्र) या रु.1000/- (रूपए एक हज़ार मात्र),जैसा भी मामला हो,से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दोप्रतियां. यदि शुल्क,मांगा गया ब्याज,लगाया गया दंड की राशिऔर 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 अपीलियअधिकरण, 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 के10% 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

Brief facts of the case:-

1.1 Present appeals have been filed by M/s. Khushboo India Pvt. Ltd., Plot No. V-6, Sosiya Ship Breaking Yard, Sosiya, P.O. Manar, Dist. Bhavnagar (hereinafter referred to as 'the appellant') in terms of Section 128 of the Customs Act, 1962, on 19.02.2025 against Final Orders-In-Original No. 44/CUS-REF//2025-26 dated 10.11.2025 and 47/CUS-REF/2025-26 dated 02.12.2025-26 (hereinafter referred to as 'the impugned Orders') passed by the Assistant Commissioner of Customs, Custom Division Bhavnagar (hereinafter referred to as 'the adjudicating authority').

1.2. The Appellant imported following vessels/ship for breaking purpose and filed bills of entry for home consumption under Section 46 of the Customs Act, 1962. The Bills of Entry were assessed provisionally assessed for want of original documents.

Sl.No.	Name of the Ship /Vessel	Bill of Entry No.	Date of Bill of Entry
1	MV MEGA	7074558	13.01.2022
2	MV WELMOUNTAIN	SBY/276/2012-13	10.12.2012

1.3. There was some dispute with regard to assessment of Customs duty of the Fuel and Oil (Fuel Oil, Marine Oil, Lube Oil) contained in the Bunker tanks inside /outside engine room of the vessel /ship. Importer claimed that Fuel and Oil (Fuel Oil, Marine Oil, Lube Oil) contained in the Bunker tanks inside /outside engine room of the vessel /ship was to be assessed to duty under CTH 8908 along with vessel. However, the Department was of the view that Fuel and Oil contained in Bunker Tanks were to be assessed to duty under respective CTH of Chapter 27.

1.4 Hon'ble CESTAT, Ahmedabad vide its orders A/11792-11851/2022 dated 17.10.2022/01.12.2022 has held that the oil contained in the Bunkers Tanks in the engine room of the vessel is to be assessed to duty under CTH 8908, along with the vessel coming for breaking up. Further, in adherence to aforesaid orders of Hon'ble CESTAT, it has been decided by the Assistant Commissioner, Customs Division, Bhavnagar in Final Assessment Orders No. 111175/2698172/SBY/2024-25 dated 13.11.2024 and 1228/SBY/2024-25 dated 17.12.2024 that Bunker Tanks containing oil are to be treated as part of vessel's machinery and the Oils contained in them are to be classified under CTH

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8908 along with the vessel, as covered under para 2(b) of circular no. 37/96-Cus Dated 03.07.1996. Therefore, in view of the aforementioned judgment of the Hon'ble Tribunal, all the above mentioned Bills of Entry were finally assessed as tabulated below.

1.5 Consequent to the Final assessment of Bills of Entry the, Appellant filed refund claim as tabulated below.

Sl. No.	Bill of Entry No.	Final assessment Order	Date of final assessment	Amount of refund filed	Date of filing refund
1	7074558	111175/2698172/SBY/2024-25	13.11.2024	232075	01.10.2025
2	SBY/276/ 2012-13	1228/SBY/2024-25	17.12.2024	683000	03.07.2025

The Adjudicating Authority sanctioned the refund claims vide the impugned orders and credited the same to the Consumer Welfare Fund.

1.6 Being aggrieved by the impugned orders, the Appellant preferred the present appeals.

2. **Ground of Appeal submitted by the Appellant**

2.1 The Appellant submitted that they were entitled to the refund of 2,32,075/- and 68300/- in against final assessment orders No. 111175/2698172/SBY/2024-25 dated 13.11.2024 and 1228/SBY/2024-25 dated 17.12.2024 however, only refund amount of Rs. 97,777/- and 5,81,797/- has been sanctioned without disclosing the grounds for the same. Thus, based on the above, the submitted that impugned orders have been passed without following the principle of natural justice.

2.2 The Appellant further submitted that they have not passed the incidence of more paid up customs duty. Therefore, the concept of invoking unjust enrichment invoked in the present case does not arise.

2.3 The Appellant further submitted that impugned order passed by the Adjudicating Authority appears to be have been passed in the nature and style as "Ex-Parte". Therefore, they prayed to asset aside the impugned order and remand back the case to the Adjudicating Authority with a direction to decide/adjudicate the case after giving an opportunity to be heard in person. The

Appellant further submitted that there are many settled cases laws and all such case laws may be referred.

3. PERSONAL HEARING:

Opportunity of personal hearing was granted to the Appellant. Shri N K Maru, Consultant of the Appellant appeared for personal hearing and re-iterated the written submission filed during the course of filing appeal.

4. DISCUSSION AND FINDINGS:

4.1 The date of the impugned order and the date of filing appeal by the Appellant is tabulated below.

Impugned Order No.	Date of Order	Date of Filing appeal	Remark
44/CUS-REF/2025-25	10.11.2025	24.12.2025	File within 60 days of the order
47/CUS-REF/2024-25	02.12.2025	24.12.2025	File within 60 days of the order

Thus, based on the above, I find that the Appellant had the filed the appeal well within the time period of 60 days prescribed under the provisions of Section 128 of the Customs Act, 1962.

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

4.3 The Customs Division Office, Bhavnagar was requested for submission of comments of the appeal filed by the Appellant vide letters 03.09.2025 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 following issues arise for determination:

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i) Whether the above cases are fit for remand to the original Adjudicating Authority for deciding the case fresh after giving opportunity of personal hearing to the Appellant.

4.5 The Appellant has mainly contested that they were not given opportunity of personal hearing following the principal of natural justice. On perusal of the impugned order I find that the impugned order does not contain any details of personal hearing granted in the matter during the course of rejection of refund claim and issuance of impugned order. I am of the considered view that the Adjudicating Authority is law bound to follow the principal of natural justice and give opportunity of personal hearing to the Appellant as they same have not been granted to the Appellant.

4.6 Accordingly, in the interest of justice and in order to ensure compliance with the principles of natural justice, I deem it appropriate to remand the matters to the adjudicating authority under Section 128A (3) of the Customs Act, 1962. In this regard, reliance is placed upon the judgment of the Hon'ble Gujarat High Court in Medico Labs [2004 (173) E.L.T. 117 (Guj.)], the judgment of the Hon'ble Bombay High Court in Ganesh Benzoplast Ltd. [2020 (374) E.L.T. 552 (Bom.)], and the decisions of the Hon'ble Tribunal in Prem Steels Pvt. Ltd. [2012-TIOL-1317-CESTAT-DEL] and Hawkins Cookers Ltd. [2012 (284) E.L.T. 677 (Tri.-Del.)], wherein the appellate authority's power to remand under Section 128A(3) of the Customs Act, 1962 has been recognized.

5. In view of the foregoing discussion, the appeals are allowed by way of remand. The impugned orders are set aside and the cases are remanded to the Adjudicating Authority for de-novo adjudication in accordance with law after giving opportunity of personal hearing to the Appellant following the principle of natural justice. It is expressly clarified that no opinion or views have been expressed on the merits of the case.

सत्यापित/ATTESTED

अधीक्षक/SUPRERINTENDENT
सीमा शुल्क (अपील्स), अहमदाबाद.
CUSTOMS (APPEALS), AHMEDABAD

Vishwajeet Singh
30.09.2026

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

F.No. S/49-290&293/CUS/JMN/DEC/2025-26

By **Speed Post / E-mail**

To
M/s. Khushboo India Pvt. Ltd.
Plot No. V-6, Sosiya Ship Breaking Yard,
Sosiya, P.O. Manar, Dist. Bhavnagar.
(email: info@kirangroup.in)

Copy to: (By E-mail only)

1. The Chief Commissioner of Customs, Ahmedabad. (email: ccoahm-guj@nic.in)

2. The Commissioner of Customs (Prev.), Jamnagar. (email: commr-custjmr@nic.in rra-custjmr@nic.in)

3. The Assistant Commissioner of Customs, Customs Division, Bhavnagar, for information and necessary action. (email: cusdiv-bhavnagar@gov.in)

4. Guard File.