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-20260971MN00008FCEC

क	फ़ाइल संख्या FILE NO.	S/49-309/CUS/JMN/FEB/2025-26
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962) :	JMN-CUSTM-000-APP-71-2026-27
ग	पारितकर्ता PASSED BY	Shri Vishwajeet Singh Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	24.09.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	35/DC/RD/2025-26 dated 16.12.2025
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	24.09.2026
	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	1. M/s Atlantic Global Shipping Pvt. Ltd. 301/401, 3rd Floor, Anurag Avenue, Limda Lane, Opposite Jawhar Pan, Jamnagar, Gujarat-361001.

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 Atlantic Global Shipping Pvt. Ltd. 301/401, 3rd Floor, Anurag Avenue, Limda Lane, Opposite Jawahar Pan, Jamnagar, Gujarat-361001. (herein after referred to as the "Appellant for the sake of brevity) has filed the present appeals against Orders-In-Original 35/DC/RD /2025-26 dated 16.12.2025 (herein after referred to as the "impugned orders") issued by the Deputy Commissioner, Customs Division, Jamnagar (herein after referred to as the "Adjudicating Authority).

1.2 A vessel MT W.S. Enterprise was converted from foreign run into coastal run and the Appellant had filed Bill of Entry No. F-45 dated 25.08.2008 which was assessed provisionally. On final assessment the Appellant filed a refund claim of Rs. 11,70,810/. Thereafter, the Assistant Commissioner, Customs Division, Jamnagar vide Order-in-Original No. 111/AC/RD/2010-11 dated 27.08.2010 sanctioned the refund but ordered to be credited the same into the Consumer Welfare Fund as provided under Section 27(2) of the Customs Act, 1962 read with Section 18(5) and 28D of the Customs Act, 1962 for non-compliance of doctrine of unjust enrichment.

1.3. Subsequently, on being aggrieved by the order of the Assistant Commissioner, the Appellant filed an appeal before the Commissioner (Appeals), Customs, Ahmedabad, however, the appeal was rejected vide OIA No. 25/Commr(A)/JMN/2011 dated 28.03.2011 and the Commissioner (Appeals) uphold the impugned order passed by the lower authority sanctioning the refund to Consumer Welfare fund.

1.4 Aggrieved by the said order of the Commissioner (Appeals), the Appellant filed an appeal before Hon'ble CESTAT Ahmedabad who vide Final Order No. FO/C/A/10387-10388/2024-CU (DB) dated 08.02.2024, allowed the appeal with consequential relief. Consequent upon the Final Order No. FO/C/A/10387-10388/2024-CU (DB) dated 08.02.2024 of Hon'ble CESTAT, the Appellant vide letter No. AGS/WS Entrprise/Appeal-C/179/2011/Refund/2024 dated 13.03.2024, requested the jurisdictional Customs Authority to sanction the refund amount of Rs. 11,70,810/- along with applicable interest from the date of sanction of refund. Thereafter, the Deputy Commissioner, Customs Division, Jamnagar vide Order-in-Original No.29/DC/RD/2024-25 dated 30.05.2024 had ordered to recover the amount from the Consumer Welfare Fund and sanctioned the refund amount of Rs. 11,70,810/- to the Applicant under Section 27 of the

Vishwajeet Singh

Customs Act, 1962 read with erstwhile Section 129E and Section 129EE of the Customs Act, 1962, but rejected the claim of interest on refund claim sanctioned to the Applicant.

1.5. Being aggrieved from the above mentioned Order-in-Original No.29/DC/RD/2024-25 dated 30.05.2024 passed by the Deputy Commissioner, the Applicant filed an appeal before the Commissioner of Customs (Appeals) Ahmedabad. The Hon'ble Commissioner of Customs (Appeals) Ahmedabad vide his O.I.A. No.JMN-CUSTM-000-APP-030-25-26 dated 25.06.2025 allowed the appeal by way of remand to the adjudicating authority for passing speaking order, after providing opportunity of personal hearing to the Applicant, after examining available facts, documents, submissions and accordingly to take necessary action and issue appropriate orders afresh after following the principles of natural justice and adhering to the legal provisions.

1.6 The Adjudicating Authority on the direction of the order dated 16.12.2025 of Commissioner(Appeals), Customs, Ahmedabad passed the impugned order wherein the claim of interest was rejected.

1.7 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 lower Authority's contention that the impugned refund of excess provisional deposit of the duty leviable on the fuel and other stores consumed by a vessel on 'coastal voyage under a provisionally assessed Bill of Entry being claimed by the Appellant under section 27 of the Customs Act, 1962, is a refund of pre-deposit made under section 129E and that the provisions of section 129EE would be applicable and therefore no interest is payable is grossly improper and erroneous for the reasons enumerated herein below. The Appellant further submitted that as such, the arguments put forth in Para 15 to 20 of the impugned Order-in-Original No. 35/DC/RD/2025-26 dated 16.12.2025, for rejection of the claim of interest merits to be quashed and set aside as it is legally flawed and unjustifiable:

2.2 The Appellant further submitted it is a fact that the refund claimed was in respect of the excess provisional duty deposited by the Appellant at the time of provisional assessment which had been already ordered to be refunded upon finalization of the assessment of the Bill of Entry by the Proper Officer of the department and was not a pre-deposit under Section 129 E of the Customs Act,

Vishwajeet Singh

1962 as held by the Deputy Commissioner in the impugned OIO. It was clearly not a pre-deposit paid before filing an appeal under section 128 before the Commissioner of Customs (Appeals) and as such section 129E of the Customs Act, 1962 not at all relevant here. For the sake of argument and without admitting, if it was a pre-deposit under section 129E there would not have been any question of the doctrine of unjust enrichment here. As per the Boards directions the pre-deposit is required to be refunded on the basis of a letter from the Appellant. There would not have been any occasion to raise any question or for transferring the amount to the Consumer Welfare Fund.

2.3 The Appellant further submitted that they had got the Foreign Flag vessel MT Maersk Value converted from 'foreign run' to 'coastal run'. On conversion of the said vessel, they had filed Provisional Bill of Entry No. F-45 dated 25.08.2008 for payment of duty deposit of 110% of the leviable duty estimated in respect of the fuels, stores and provisions likely to be consumed by the vessel and crew during the 'coastal run', as per the provisions contained in the Board's Circular No. 58/97 dated 06.11.1997. The said Bill of Entry was provisionally assessed and an amount of Rs. 39,81710/- was paid by the Appellant as duty deposit towards 110% of the of duty leviable on an estimated quantity of bunker fuels, stores and provisions likely to be consumed by the vessel and crew during the coastal voyage, After reversion of the said vessel, the Bill of Entry was finally assessed on 28.03.2009 and the duty liability on the items consumed was finalized at Rs. 28,10,900/-. Thus, an excess amount of Rs. 11,70,810/- was found to have been deposited at the time of provisional assessment.

2.4 The appellant vide letter dated 22.03.2010 filed a refund claim under section 27 of the Customs Act, 1962 for refund of excess duty deposited. A deficiency memo dated 25.03.2010 was issued by the Respondent for producing documentary evidence related to unjust enrichment. The refund claim complete in all respects including CA certificate and documents evidencing that no unjust enrichment was involved were submitted by the Appellant to the Respondent vide letter dated 05.04.2010. The Appellant further submitted that it is pertinent to point out here that the adjudicating Authority, being the supervisory Officer of the proper Officers who have certified the consumption of the fuel, stores and provisions during the coastal voyage, was well aware that the goods in question were neither landed nor out of charged by Customs; that they had been carried on board the vessel which sailed to foreign destination; that they cannot be sold or transferred to any other person to pass on the incidence of duty: and that as such there was no involvement of the doctrine of unjust enrichment in this case.

Vishwajeet Singh

2.5 The Appellant further submitted that however, a Show Cause Notice dated 29.06.2010 was issued to them calling upon them as to why the refund amount should not be credited to the Consumer Welfare Fund for non-compliance of the obligation of doctrine of unjust enrichment. The Appellant vide letter dated 22.07.2010 replied to the SCN. wherein it was explained in detail that the principle of unjust enrichment would not be applicable to the refund claimed as it was in respect of the goods which remained unutilized on board the vessel on reversion to 'foreign run'; and that a CA certificate confirming that the duty incidence had not been passed on to any other person was also submitted. The Assistant Commissioner of Customs, Customs Division, Jamnagar vide Order-in-Original No. 111/AC/RD/2010-11 dated 27.08.2010 sanctioned the refund and credited it to the Consumer Welfare Fund incorrectly alleging that the appellant had not produced any evidence that the incidence of duty paid was not passed on to their customers.

2.6 Being aggrieved by the said OIO dated 27.08.2010, an appeal was filed with the Commissioner of Customs (Appeals), Ahmedabad as the duty involved in this case was in respect of the duty paid on the fuel in the bunkers which was used in running the ship and was not sold to any customers and hence the question of the duty being passed on to the customers did not arise. The Hon'ble Commissioner of Customs (Appeals), vide O.I.A No. 25/Commr(A)JMN/2011 dated 23.03.2011 however, rejected the Appellant's appeal, upholding the O1O. Thereafter, an appeal bearing No. C/179/2011 was filed against the Commissioner (Appeal)'s OIA dated 23.03.2011 before the Hon'ble CESTAT Ahmedabad Bench on 23.03.2011. The Hon'ble CESTAT, vide Final Order No. A/10387-10388/2024 dated 08.02.2024, relying on the various decisions cited by the Appellant, allowed the appeal with consequential relief.

2.7 On receipt of the Hon'ble CESTAT's Order, the Appellant, vide letter dated 13.03.2024, addressed to the Deputy Commissioner of Customs, Customs Division, Jamnagar, requested for the refund amount of Rs. 11,70,810/- already sanctioned vide O1O dated 30.09.2010, along with applicable interest. The Deputy Commissioner, vide Order-in-Original No. 29/DC/RD/2024-25 dated 30.05.22024 disbursed the refund amount of Rs. 11,70,810/- under section 27 of the Customs Act, 1962. However, instead of paying the interest on the delayed refund under section 27A ibid, rejected the claim of interest quoting the erstwhile section 129E and section 129EE of the Customs Act, 1962 as per the discussions made in Para 10 and 11 therein.

2.8 The Appellant further submitted that a similar stand has again been taken

Vishwajeet Singh

by the Deputy Commissioner, Custom House, Sikka, vide impugned Order-in-Original No. 35/DC/RD/2025-26 dated 16.12.2025 rejecting the claim for interest on the delayed refund by treating the refund of excess provisional duty deposit incorrectly as a pre-deposit under section 129E of the Customs Act, 1962, in the denovo proceedings ordered by the Commissioner of Customs (Appeals), Ahmedabad vide OIA No. JMN-CUSTM-000-APP-030-25-26 dated 25.06.2025.

2.9 The Appellant further submitted that the interest on the impugned refund of provisional duty deposit of 110% of the duty leviable on the fuel and other stores consumed by the ship on a coastal voyage as assessed on finalization of a provisional Bill of Entry being claimed by the Appellant under section 27 of the Customs Act, 1962, not being a pre-deposit under the provisions of section 129E, will have to be dealt under section 27A of the Customs Act, 1962. Section 27A at the relevant time reads as below:

"SECTION [27A. Interest on delayed refunds.

If any duty ordered to be refunded under sub-section (2) of section 27 to an applicant is not refunded within three months from the date of receipt of application under sub-section (1) of that section, there shall be paid to that applicant interest at such rate, [not below five per cent] and not exceeding thirty per cent per annum as is for the time being fixed [by the Central Government by

Notification in the Official Gazette), on such duty from the date immediately after the expiry of three months from the date of receipt of such application till the date of refund of such duty:

Provided that where any duty, ordered to be refunded under sub-section (2) of section 27 in respect of an application under sub-section (1) of that section made before the date on which the Finance Bill, 1995 receives the assent of the President, is not refunded within three months from such date, there shall be paid to the applicant interest under this section from the date immediately after three months from such date, till the date of refund of such duty.

Provided that where any duty, ordered to be refunded under sub-section (2) of section 27 in respect of an application under sub-section (1) of that section made before the date on which the Finance Bill, 1995 receives the assent of the President, is not refunded within three months from such date, there shall be paid to the applicant interest under this section from the date immediately after three months from such date, till the date of refund of such duty.

Vishwajeet Singh

Explanation. - Where any order of refund is made by the Commissioner (Appeals), Appellate Tribunal or any court against an order of the [Assistant Commissioner of Customs or Deputy Commissioner of Customs] under sub-section (2) of section 27, the order passed by the Commissioner (Appeals), Appellate Tribunal or as the case may be, by the court shall be deemed to be an order passed under that sub-section for the purposes of this section.

2.10 The Appellant further submitted that from the facts of the case and the relevant provisions of the Customs Act, 1962 as applicable, it can be seen that the interest on the refund claimed, if not paid within three months from the date of receipt of the application, has to be paid immediately after the expiry of three months from the date of receipt of such application till the date of refund of such duty. The refund claim after removal of all deficiencies along with the CA certificate to the effect that the duty incidence has not been passed on to any other person and the copy of the relevant ledger account, was filed on 05.04.2010 in the present case. The refund was admissible and was sanctioned vide OIO No. 111/AC/RD/2010-11 dated 27.08.2010. However, instead of paying the sanctioned refund amount to the Appellant, it was credited to the Consumer Welfare Fund on the grounds of unjust enrichment on the pretext that no evidence was produced to show that the duty amount claimed as refund was not passed on to the customers. The said O1O dated 27.08.2010 pertaining to the crediting of the sanctioned refund to the Consumer Welfare Fund was only challenged before the Commissioner of Customs (Appeals), which was rejected.

2.11 The OIA was, thereafter, challenged before the CESTAT with the same prayer to set aside the order of the lower authority to the extent of transferring the sanctioned amount to the Consumer Welfare Fund. The Hon'ble CESTAT allowed the Appellant's appeal with consequential relief. In view of the above, it is clear that the CESTAT's Final Order dated 08.02.2024 has allowed the appellant's prayer of setting aside the OIO/OIA to the extent of transferring the refund amount to the Consumer Welfare Fund with consequential relief. The said Order has not accorded any fresh sanction of refund and the order of the Assistant Commissioner dated 27.08.2010 sanctioning of refund was final. The CESTAT's order dated 08.02.2024 had only modified the OIO/OIA dated 27.08.2010 to the extent that instead of the refund amount sanctioned being credited to the Consumer Welfare Fund be paid to the appellant.

2.12 The Appellant further submitted that the OIO to the extent of sanctioning the refund had attained finality on 27.08.2010 itself. The Deputy Commissioner

Vishwajeet Singh

has erred in the findings (para 13 of the OIO) that the refund was sanctioned consequent to the Hon'ble CESTAT's order dated 08.02.2024 and has failed to appreciate the fact that the refund was already sanctioned under section 27 of the Customs Act, 1962 on 27.08.2010 itself. The Deputy Commissioner, consequent to the said CESTAT order, had only withdrawn the amount from the Consumer Welfare Fund and paid it to the Appellant. It was not sanctioned once again as mentioned in the said para. Further, the findings in paras 15 to 20 of the impugned OIO is totally misconceived and irrelevant to this case as the refund claim pertains to refund of excess duty deposited at the time of provisional assessment which was due to be refunded on finalization of the assessment. The said refund which was claimed under section 27 of the Customs Act, 1962 cannot be equated to a pre-deposit made under section 129E of the Customs Act, 1962 as erroneously held by the learned Deputy Commissioner in paras 15 to 20 of the O1O. Further, as the refund claimed is in respect of duty deposited at the time of provisional assessment which was found to be in excess at the time of finalization of the assessment, the same is covered under section 27 of the Customs Act, 1962 and the interest payable on the delayed payment of refund covered under section 27A ibid and not under section 129EE as held by the lower Authority.

2.13 The Appellant further submitted that it can be seen that as the refund claimed under section 27 of the Customs Act, 1962 had attained finality on the date on which it was sanctioned, i.e. 27.08.2010, the interest on the delayed payment of refund would be payable as per the provisions under section 27A ibid immediately after expiry of three months from the filing of the complete refund claim after removing all deficiencies, i.e. 05.04.2010. The Appellant also relied on the Hon'ble Bombay High Court's judgment in the case of Ajay Industrial Corporation Ltd. vs. Deputy Commissioner of Customs, CRC-I, JNCH Nhava Sheva, Raigad [(2024) 24 Centax 396 (Bom.)/2025(391) E.L.T 297 (Bom.)] wherein it has been held that interest on delayed refund would be payable under section 27A of the Customs Act, 1962 on expiry of three months from the date of receipt of application till date of refund of duty when no allegation was made about application for refund being incomplete or containing any other deficiencies. The Appellant also relied on the OIA No. JMN-CUSTM-000-APP-196-23-24 dated 25.01.2024 passed by the Commissioner of Customs (Appeals), Ahmedabad wherein it was held that the appellant would be entitled to interest after expiry of three months from 18.09.2018 i.e. the date of filing of refund claim till the refund is paid to the appellant and ordered the quantification of interest to be done accordingly.

Vishwajeet Singh

2.14 Thus, based on the above, the Appellant submitted following prayer

i. Impugned order pertaining to rejection of claim for interest on the sanctioned refund of provisional duty deposit be set aside.

ii. The appeal be allowed. ordering payment of interest under section 27A of the Customs Act, 1962 immediately after three months of the date of filing of the complete refund claim, i.e. 31.05.2010. till the refund amount is finally paid.

iii. Consequential relief be granted.

3. PERSONAL HEARING:

Opportunity of personal hearing was granted to the Appellant. Shri M P Vasudeven and Shri Muralidhar M. Panicker, authorized representative of Appellant appeared for personal hearing in virtual mode through video conferencing wherein they re-iterated written submission filed during the appeal.

4. DISCUSSION AND FINDINGS:

4.1 The date of the impugned order is 16.12.2025 and the date of filing appeal by the Appellant is 05.02.2025. 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 interest on 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.

4.3 The Customs Division, Jamnagar was requested for submission of comments of the appeal filed by the Appellant vide letter dated 10.03.2026 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 impugned order pertaining to rejection of claim for interest on the sanctioned refund of provisional duty deposit is liable to be set aside.

ii. Whether the Appellant is eligible for payment of interest under section 27A of the Customs Act, 1962.

Vishwajeet Singh

4.5 To arrive at a judicious conclusion, it is imperative to dissect the statutory provisions, the chronological milestones of the litigation, and the fundamental legislative intent behind the grant of interest on delayed refunds.

4.6 I find that the Appellant's preliminary submission is that the Adjudicating Authority fundamentally erred in classifying the refund of excess provisional duty as a "pre-deposit" under Section 129E of the Customs Act, 1962 is not correct. The legislative intent behind Section 129E is entirely distinct; it mandates a statutory deposit of a prescribed percentage of duty or penalty solely as a prerequisite to maintain an appeal before an appellate forum. In stark contrast, the amount in question here was an excess duty deposited at the time of provisional assessment under Section 18 of the Customs Act, 1962. Upon finalization of this assessment, the excess amount rightfully transformed into a refund claim strictly governed by Section 27 of the Customs Act, 1962.

4.7 I also find that Section 27A of the Customs Act, 1962 is the applicable provision, the strict statutory conditions for the payment of interest must be scrutinized. Section 27A of the Customs Act, 1962 mandated the payment of interest if the duty ordered to be refunded is not refunded within three months from the date of receipt of a complete application under Section 27(1). The Adjudicating Authority legally disposed of this application vide Order-in-Original dated 27.08.2010. Crucially, the Adjudicating Authority did not sit on the application or keep it pending. The claim was processed, the amount was quantified, the refund was sanctioned, but it was ordered to be credited to the Consumer Welfare Fund pursuant to the statutory mandate of Section 27(2) of the Customs Act, 1962. This action was taken because, at that specific juncture, the original authority concluded that the Appellant had failed to discharge the burden of proof regarding the doctrine of unjust enrichment as required under Section 28C and 28D of the Act.

4.8 I also find that the term "refunded" in the context of Section 27(2) of the Customs Act, 1962 encompasses two mutually exclusive statutory destinations: payment directly to the applicant, or crediting to the Consumer Welfare Fund. When the original authority passed the order on 27.08.2010 to credit the amount to the Consumer Welfare Fund, the refund application stood legally disposed of and the exchequer's immediate liability was discharged within the stipulated timeframe. The Consumer Welfare Account is not a suspense account or an escrow holding pending litigation; it is a definitive statutory destination. Once the funds were transferred out of the consolidated exchequer into this statutory fund, the processing of the refund was complete in the eyes of the law as it stood at that moment. Therefore, the foundational trigger for Section 27A of the

Vishwajeet Singh

Customs, Act, 1962 a "delay" in processing and executing the refund application by the administrative authority never materialized.

4.9 I also find that the Appellant's specific legal right to receive the funds directly overcoming the statutory bar of unjust enrichment did not crystallize in 2010. The original adjudicating authority and the first appellate authority both found the evidentiary record lacking. This right was only legally established and crystallized on 08.02.2024, when the Hon'ble CESTAT passed its Final Order appreciating the evidence and allowing consequential relief. Prior to this judicial determination by the Tribunal, the funds were legally, rightfully, and statutorily parked in the Consumer Welfare Fund. The Appellant cannot be granted retrospective interest for acting in strict accordance with the statutory framework of Section 27(2) based on the evidentiary appreciation available at the initial adjudication stage.

4.10 It is a well-settled principle of customs jurisprudence that the legislature did not intend for Section 27A to act as a mechanism to financially compensate an assessee for the time naturally consumed in the appellate or judicial process. Section 27A targets administrative delay and lethargy. When an original authority disposes of an application and transfers the money to the Consumer Welfare Fund, the administrative clock stops. If an appellate forum later alters the destination of that sanctioned refund from the Consumer Welfare Fund to the Appellant, the clock for interest resets. Following the CESTAT order, the Appellant applied for consequential relief vide their letter dated 13.03.2024. The department acted promptly upon this request, undertook the necessary accounting procedures to withdraw the funds from the Consumer Welfare Fund, and disbursed the principal amount to the Appellant on 30.05.2024. This final disbursement was completed well within three months from the date of the Appellant's subsequent request.

4.11 I find that the Appellant has relied upon various judgments, including the Hon'ble Bombay High Court's ruling in *Ajay Industrial Corporation Ltd.*, to argue that interest runs from the original date of application regardless of intervening litigation. However, the factual matrix of those cases is clearly distinguishable. In cases where interest is granted from the initial date, the original refund applications were typically kept wholly pending, ignored, or rejected *in toto* (meaning the money remained in the exchequer unlawfully). In the present dispute, the refund was explicitly quantified and sanctioned in 2010, but statutorily diverted to the Consumer Welfare Fund due to an evidentiary deficit regarding unjust enrichment a deficit that the Appellant only successfully cured to the satisfaction of the Tribunal years later. I also opine that granting interest

Vishwajeet Singh

to the Appellant for the intervening years would amount to rewarding the Appellant for an evidentiary burden they failed to discharge to the satisfaction of the lower authorities at the first instance.

4.12 I find that the Adjudicating Authority committed no error in law or procedure. The cited case laws, while establishing sound principles of law in their respective contexts, are either distinguishable on facts or superseded by the specific circumstances of this regularization scheme and the existence of active assessment orders. In view of the comprehensive findings and statutory analysis detailed above, I uphold the rejection of the interest claim, albeit substituting the legally flawed Section 129EE reasoning of the lower authority with the correct legal framework under Section 27A of the Customs Act, 1962.

5. The appeal filed by M/s Atlantic Global Shipping Pvt. Ltd. is hereby rejected. The impugned Order-In-Original No. 35/DC/RD/2025-26 dated 16.12.2025 is upheld specifically to the extent of rejecting the payment of interest.

Vishwajeet Singh
24.09.2026

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

F. No. S/49-309/CUS/JMN/FEB/2025-26

By Registered post A.D/Email

M/s Atlantic Global Shipping Pvt. Ltd. 301/401, 3rd Floor, Anurag Avenue, Limda Lane, Opposite Jawahar Pan, Jamnagar, Gujarat-361001

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 House, Jamnagar
4. Guard File

