



सीमाशुल्क(अपील) आयुक्तकाकार्यालय,
OFFICE OF THE COMMISSIONER OF CUSTOMS(APPEALS),अहमदाबाद AHMEDABAD,
चौधीमंज़िल 4th Floor, हडको बिल्डिंगHUDCO Building, ईश्वर भुवन रोड़ IshwarBhuvan Road,
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009
दूरभाषक्रमांक Tel. No. 079-26589281
DIN- 20250671MN000000CE93

क	फ़ाइलसंख्या FILE NO.	S/49-212/CUS/MUN/2023-24 S/49-213/CUS/MUN/2023-24 S/49-220/CUS/MUN/2023-24
ख	अपीलआदेशसंख्या ORDER-IN- APPEAL NO. (सीमाशुल्कअधिनियम, 1962 की धारा 128कके अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	MUN-CUSTM-000-APP-111 to 113-25-26
ग	पारितकर्ता PASSED BY	SHRI AMIT GUPTA Commissioner of Customs (Appeals), AHMEDABAD
घ	दिनांक DATE	30.06.2025
ङ	उद्भूतअपीलआदेशकीसं. वदिनांक ARISING OUT OF ORDER-IN- ORIGINAL NO.	Bill of Entry No. 8200568 dated 16.01.2017 Bill of Entry No.8199794 dated 16.01.2017 Bill of Entry No.8199785 dated 16.01.2017
च	अपीलआदेशजारीकरनेकीदिनांक ORDER- IN-APPEAL ISSUED ON:	30.06.2025
छ	अपीलकर्ताकानामवपता NAME AND ADDRESS OF THE APPELLANT: 	(1) M/s. Winstrol Petrochemicals Pvt. Ltd., Plot No. 113, Swarn Park, Mundkal Industrial Area, Delhi- 110041 (2) M/s. Winstrol Petrochemicals Pvt. Ltd., J-2/6B, Basement, Rajouri Garden, New Delhi-110027

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.	
	खेत सम्बन्धित आदेश/Order relating to :	
(क)	बैगेज 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 (यथासंशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्षक 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 रुपए 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, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench
	दूसरी मंजिल, 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 हजार 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 हजार 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 हजार 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।
(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

Following three appeals have been filed by M/s. Winstrol Petrochemicals Pvt. Ltd., Plot No. 113, Swarn Park, Mundkal Industrial Area, Delhi- 110041 and M/s.Winstrol Petrochemicals Pvt. Ltd., J-2/6B, Basement, Rajouri Garden, New Delhi-110027 (hereinafter referred to as the "appellants") in terms of Section 128 of the Customs Act, 1962, challenging the Bill of Entry assessment (hereinafter referred to as 'the impugned order/ Bill of Entry') by the Deputy/Assistant Commissioner, Customs, Custom House, Mundra (hereinafter referred to as the 'adjudicating authority') as per Table-I below

Table-I

Sr No	Name of the Appellant(M/s)	Appeal No.	Bill of Entry No. & date
1	M/s. Winstrol Petrochemicals Pvt. Ltd., Plot No. 113, Swarn Park, Mundkal Industrial Area, Delhi- 110041	S/49-212/CUS/MUN/2023-24	8200568 dated 16.01.2017
2	M/s.Winstrol Petrochemicals Pvt. Ltd., J-2/6B, Basement, Rajouri Garden,	S/49-213/CUS/MUN/2023-24	8199794 dated 16.01.2017
3	New Delhi-110027	S/49-214/CUS/MUN/2023-24	8199785 dated 16.01.2017

2. The above 03 appeals have arisen on account of the Final Order No. A/12645-12662/2023 dated 22.11.2023 passed by the Hon'ble CESTAT, Ahmedabad whereby the Hon'ble Tribunal has remanded the matter to the Commissioner (Appeals) to pass the order on merits after rectification of defects by the appellants. Initially, the appellant had filed the 03 appeals, in terms of Section 128 of the Customs Act, 1962, challenging the assessments made in the Bills of Entry as detailed below (herein after referred to as the "impugned BOE") by the assessing authority.

Sr. No.	Bill of Entry	Old Appeal No.
1	8200568 dated 16.01.2017	694/2016
2	8199794 dated 16.01.2017	695/2016
3	8199785 dated 16.01.2017	696/2016



2.1 Facts of the case, in brief, as per appeals memorandum, are that the appellant had imported Bitumen Grade 60/70 pertaining to chapter 27132000 of the Customs Tariff and filed the above mentioned bills of entry with the Custom House Mundra. The Unit price declared by the appellant was 235 USD per MT for impugned BOE Nos. 1 and 2, and 240 USD per MT for impugned BOE No. 3. However, the assessing authority while assessing the impugned BOEs rejected the value declared by the appellant during self-assessment and enhanced the value to 267 USD per MT. Further, the appellant had paid the differential duties and taxes on enhanced value under protest at the material time as per letter dated 16.01.2017.

2.2 Further, being aggrieved with the enhancement of declared value, the appellant filed the appeals dated 03.03.2017 before the Commissioner Appeals, Ahmedabad for all the impugned BOEs. However, Commissioner Appeals Ahmedabad vide its OIA No. MUN-CUSTOM-000-APP-324 TO 341 -17-18 DT 03.01.2018 observed that the 03 appeals had not been filed by any authorized person and rejected the 03 appeals stating that *"The appellant thus having made consent for assessment of the bill of entry at enhanced Value without making any specific protest on valuation prior to assessment, I do not have any valid reason to interfere with the impugned assessment forming the subject matter of the present appeals that too filed without a competent person having signed and verified the same and accordingly on this count also appeals are liable to be rejected."*

2.3 Further, being aggrieved, the appellant challenged the aforesaid OIA before the Hon'ble CESTAT Ahmedabad, who vide its Final Order No. A/12645-12662/2023 dated 22.11.2023 remanded the matter back to the Commissioner Appeals, Ahmedabad stating the following:



5. It is seen that Custom House Agent cannot file appeal under his signature and authorization. Such signature or authorization can be made only if the importer is not in India at the material time and the Custom House Agent or any other person duly authorized for filing appeal in terms of Rule 3 of Customs Appeal Rules, 1982. This deficiency should have been pointed out by the Commissioner (Appeals) to the appellant and the same could have been corrected. This cannot be a ground for rejection of appeal itself. In the interest of justice, we set aside the impugned order and remand the matter back to the Commissioner (Appeals) to treat this as a defect and offer an opportunity to the appellant to correct the same in terms of Rule 3 of the Custom Appeals Rules, 1982.

6. The matters are remanded back to the Commissioner (Appeals) to provide an opportunity to the appellant to correct this defect. If the defect is corrected, then the matters may be decided by Commissioner (Appeals) on merits."

3. Thereafter, as per the directions of Hon'ble CESTAT Ahmedabad, an opportunity was given to the appellant to correct the defect which was further corrected by the appellant for all the 03 appeals. Since, the defects have been corrected, the present appeals have been taken up for disposal. The appellant while filing the appeals contended the following:

➤ That the appellant respectfully submits that the enhancement of the declared value of imported goods by the Proper Officer is arbitrary, illegal, and violative of the provisions of Section 14 of the Customs Act, 1962 read with the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007.

➤ That the declared transaction value of US\$ 235/MT was supported by authentic and verifiable documents such as the sales contract, letter of credit, commercial invoice, packing list, and certificate of origin. There was no relationship between the buyer and seller, and the price declared was the sole consideration for the sale. Hence, all conditions for acceptance of the transaction value under Section 14 and Rule 3 were fully satisfied.

➤ That the assessing authority enhanced the value to US\$ 267/MT without issuing any show cause notice, conducting a personal hearing, or providing the reasons for such enhancement. No assessment order as required under Sections 17 or 18 was made available to the appellant. This action is in gross violation of the principles of natural justice.

➤ Furthermore, no contemporaneous Bill of Entry or details of comparable imports were provided to the appellant to justify the enhancement under Rule 4 or Rule 5. Mere reliance on NIDB data without substantiating its applicability to identical or similar goods—imported at the same time and quantity level—renders the enhancement invalid.

➤ That the appellant paid the differential duty under protest and submitted a protest letter dated 16.01.2017, clearly reserving their right to contest the valuation.



- That in the absence of any misdeclaration, fraudulent document, or suppressed facts, the rejection of the transaction value and adoption of an arbitrary higher value violates Rule 12 of the Valuation Rules, 2007
- They have relied upon the following Judgments:

- M/s Gira Enterprises v. Commissioner of Customs, Ahmedabad 2014 (307) E.L.T. 209 (S.C.)
- Commissioner of Customs, ICD v. Polyglass Acrylic Mfg. Co. Pvt. Ltd. 2015 (322) E.L.T. 794 (S.C.)
- Swastik Mechatronics Pvt. Ltd. v. Commissioner of Customs (ICD), New Delhi 2014 (314) E.L.T. 373 (Tri.-Del.)
- Commissioner of Central Excise v. Modern Overseas 2005 (184) E.L.T. 65 (Tri.-Del.)
- Commissioner of Customs v. Sharda Casting 2005 (187) E.L.T. 506 (Tri.-Del.)

PERSONAL HEARING

4. Shri Manish Jain and Ms. Raksha Bhandari, both advocates attended the personal hearing on 24.06.2025 on the behalf of appellant. They reiterated the submission made in the appeal memorandum.

DISCUSSION & FINDINGS

5. I have gone through the appeal memorandums filed by the appellant, records of the case and submissions made during personal hearing. The main contention in the appeal is that assessing authority had not issued any speaking order and without giving any opportunity of personal hearing, wrongly rejected the declared value. Therefore, the main issue to be decided is that the declared value rejected by the assessing officer in terms of Rule 12 of Customs Valuation Rules, 2007 and enhancing the declared value, in the facts and circumstances of the case, is legal and proper or otherwise.

5.1 I find that the appeals have been filed against assessment of Bill of Entry. It is observed that the Hon'ble Supreme Court in case of ITC Ltd Vs CCE Kolkata [2019 (368) ELT216] has held that any person aggrieved by any order which would include self-assessment, has to get the order modified under Section 128 or under relevant provisions of the Customs Act, 1962. Hence, the appeal preferred by the appellant against assessment in the impugned Bill of Entry is maintainable as per the judgment of the Supreme Court in ITC case supra.

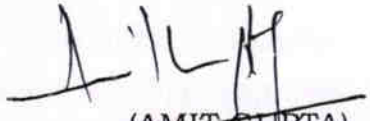
5.2 It is further observed that no speaking order by the proper officer in the matter is available. Hence, I find that entire facts are not available on records to verify the claims made by the appellant. Copies of appeal memorandum were

also sent to the jurisdictional officer for comments. However, no response has been received from the jurisdictional office. Therefore, I find that remitting the case to the proper officer for passing speaking orders in each case becomes sine qua non to meet the ends of justice. Accordingly, the case is required to be remanded back, in terms of sub-section (3) of Section 128A of the Customs Act, 1962, for passing speaking order by the proper officer of the Customs Act, 1962 by following the principles of natural justice. While passing the speaking order, the proper officer shall also consider the submissions made in present appeals on merits. In this regard, I also rely upon the Judgment of Hon'ble High Court of Gujarat in case of Medico Labs - 2004 (173) ELT 117 (Guj.), judgment of Hon'ble Bombay High Court in case of Ganesh Benzoplast Ltd. [2020 (374) E.L.T. 552 (Bom.)] and judgments of Hon'ble Tribunals in case of Prem Steels P. Ltd. [2012-TIOL-1317-CESTAT-DEL] and the case of Hawkins Cookers Ltd. [2012 (284) E.L.T. 677(Tri. - Del)] wherein it was held that Commissioner (Appeals) has power to remand the case under Section-35A (3) of the Central Excise Act, 1944 and Section-128A (3) of the Customs Act, 1962.

6. In view of the above discussion, I allow all the 03 appeals by way of remand to the proper officer for passing speaking order after examining the available facts, documents, submissions and after giving the sufficient opportunity to the appellant of being heard thus maintaining the principles of natural justice and legal provision.



सत्यापित/ATTESTED
अधीक्षक/SUPERINTENDENT
सीमा शुल्क(अपील), अहमदाबाद.
CUSTOMS (APPEALS), AHMEDABAD.


(AMIT GUPTA)
Commissioner (Appeals)
Customs, Ahmedabad

Date: 30.06.2025

F.No. S/49-212/CUS/MUN/2023-24
S/49-213/CUS/MUN/2023-24
S/49-220/CUS/MUN/2023-24

1796

By Registered Post A.D/E-Mail.

To,

(1) M/s. Winstrol Petrochemicals Pvt. Ltd.,
Plot No. 113, Swarn Park,
Mundkal Industrial Area,
Delhi- 110041

(2) M/s. Winstrol Petrochemicals Pvt. Ltd.,
J-2/6B, Basement, Rajouri Garden,
New Delhi-110027

Copy to:-

- ✓ 1. The Chief Commissioner of Customs, Ahmedabad zone, Customs House, Ahmedabad.
2. The Pr. Commissioner of Customs, Customs House, Mundra
3. The Deputy/Assistant Commissioner of Customs, Customs House, Mundra
4. Guard File.

