



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD,

चौथी मंज़िल 4th Floor, हड्को भवन HUDCO Bhawan, ईश्वर भुवन रोड Ishwar Bhuvan Road  
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009  
दूरभाष क्रमांक Tel. No. 079-26589281

DIN - 20250471MN0000015487

क	फाइल संख्या FILE NO.	S/49-37/CUS/MUN/2023-24
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) :	MUN-CUSTM-000-APP- 014-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	29.04.2025
ड	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order – In – Original No. MCH/ADC/RK/150/2022-23, dated 30.01.2023
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	29.04.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s Shree Malan Shipping, Bunder Road, Near Mandvi, GMB Port, Mandvi-Kutch, Gujarat – 370465



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)	बैगेज के रूप में आयातित कोई माल।
(a)	any goods exported
(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/- (रूपए दो सौ मात्र) या रु.1000/- (रूपए 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, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	<b>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</b>
	दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 <sup>nd</sup> 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 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; पाँच हजार रुपए	
(ब)	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 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 हैं, अपील रखा जाएगा।	
(द)	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 Shree Malan Shipping (Custom Broker), Bunder Road, Near Mandvi, GMB Port, Mandvi-Kutch, Gujarat – 370465 (hereinafter referred to as ‘the Appellant’) have filed the present appeal in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original bearing No. MCH/ADC/RK/150/2022-23 dated 30.01.2023 (hereinafter referred to as ‘the impugned order’) passed by the Additional Commissioner of Customs, Customs House, Mundra (hereinafter referred to as ‘adjudicating authority’).

2. Facts of the case, in brief, are that the Appellant being the Authorised Customs Broker had filed 3 shipping bills i.e. 6396046 dated 21.08.2019, 6396758 dated 23.08.2019 and 6396697 dated 21.08.2019 for export of goods declared as "Wall Paper" (hereinafter referred to as 'export goods') on behalf of their client/exporter M/s Meera Overseas, Flat No. A-605, 6<sup>th</sup> Floor, Shilparaj Apartment, Adajan Patiya, Surat – 395009. The goods being exported vide the said 3 shipping bills are as follows :



45

Item No.	Description of goods	Rate(Rs/SqFt)	Qty (SqFt)	FOB Value (in Rs.)
<b>Shipipng Bill No. 6396046 dtd 21.08.2019</b>				
1	Embroidered Flower Wallpaper	279.9	6156	1723055
2	Multi Designer Flower Wallpaper	255.35	10944	2794507
3	Designer Flower Wallpaper	255.35	33516	8558177
4	Luxury Line Wallpaper	331.11	2052	679434
5	Luxury Texture Wallpaper	279.9	6840	1914506
6	Designer Mix Wallpaper	233.6	4788	1118474
7	Decorative & Luxury Mix Wallpaper	251.14	7524	1889555
Total			71820	1,86,77,707

Shipipng Bill No. 6396758 dtd 21.08.2019

Item No.	Description of goods	Rate(Rs/SqFt)	Qty (SqFt)	FOB Value (in Rs.)
1	Luxury Line & Plain Emboss Wallpaper	347.24	8208	2850166
2	Luxury 3d & Flower & Designe Wallpaper	307.96	7524	2317080
3	Luxury Lining & Mix Wallpaer	290.42	8208	2383776
4	Designener Line Wallpaper	279.9	13680	3829011
5	Emboss Flower & Mix Wallpaper	315.68	13680	4318434
6	Luxury Texture Flower Wallpaper	188	5472	1028747
7	Designer Texture +Plain Wallpaper	298.14	10944	3262817
			67716	19990031

S/B No 6396697 dtd 21.08.2019

Item No.	Description of goods	Rate(Rs/SqFt)	Qty (SqFt)	FOB Value (in Rs.)
1	Printed & Designer Wallpaper	251	10944	2748443



2	Luxury Multi Line & Flower Wallpaper	208	19836	4132741
3	Luxury Plain Wallpaper	280	2736	765802
4	Luxury Flowers & Texture Wallpaper	210	21204	4447507
5	Multi Color & Designer Mix Wallpaper	267	10944	2917342
6	Flower Designer Mix Wallpaper	292	12996	3792545
7	Luxury Multi Line Mix Wallpaper	280	9576	2680308
<b>Total</b>			<b>88236</b>	<b>21484689</b>
<b>Grand total</b>			<b>227772</b>	<b>60152427</b>

The RMS instructions in respect of the export goods were as follows:

*"the exporter has a risky profile. Goods to be allowed for export only after 100% examination with respect to the criteria viz. Classification/declaration/ valuation to check any undue claim of export benefits including IGST refund. The benefits of IGST refund to be suspended before Sanctioning LEO. Refer Circular No. 16/2019-Customs dated 17.06.2019. The items may be mis-declared/mis-classified and / or overvalued to claim ineligible HIGH IGST Refunds. Examine carefully w.r.t. the declared description, brand, quality, value etc."*

3. During the examination proceedings dated 28.08.2019, it appeared that the said goods were grossly overvalued and therefore, the matter was transferred to SIIB Section, CH, Mundra for further enquiry/investigation.

4. During the course of enquiry/investigation, statements so recorded during the course of investigation and market survey in respect of the goods being exported, it was revealed that the said exported goods so being mentioned in the said shipping bills were highly overvalued by the exporter M/s Meera Overseas and it appeared that the instant case to be a case of overvaluation with an intent to avail the undue export incentive including IGST refund. It was further revealed that from the verification report of the jurisdictional CGST Commissionerate i.e. Surat that M/s Meera Overseas is a fake/bogus taxpayer. Thus, from enquiry/investigation it was concluded that the re-determined value of the export goods in terms of Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007 comes to Rs.41.73 per sq. feet and therefore total re-determined value of export goods appears to be Rs.95,05,485/- for 22772 sq. feet of wall paper under all the three shipping bills. The declared value of the export goods in the impugned shipping bills amounting to Rs.6,01,52,427/- with total claim of IGST refund to the tune of Rs.1,05,96,076/-. In terms of the value so re-determined the said exporter appears to be eligible for IGST refund of Rs.14,49,989/- only. Hence they attempted to claim undue IGST refund of Rs.91,46,086/- by value of overvaluing the export goods. As they have mis-declared the value of the export goods despite their subscription to a declaration as to the truth of its contents in terms of Section 50 of the Customs Act, 1962,



the said goods are liable for confiscation under Section 113(i) of the Customs Act, 1962.

4.1 In view of the above, Customs Broker M/s Shree Malan Shipping , Mundra was issued a show cause notice by the Additional Commissioner of Customs, Customs house, Mundra as to why penalty should not be imposed upon them under the provisions of Section 117 of the Customs Act, 1962 which culminated in the form of Order-in-Original MCH/ADC/RK/150/2022-23 dated 30.01.2023 imposing penalty amounting to Rs.1,00,000/- upon the Appellant under Section 117 of the Customs Act, 1962.

4.2 It is in the above context the Appellant has filed the present appeal in terms of Section 128 of Customs Act, 1962 before this appellate authority seeking to quash the impugned order dated 30.01.2023 so passed by the Additional Commissioner of Customs, Customs House, Mundra imposing penalty upon them as contrary to law.

#### **SUBMISSIONS OF THE APPELLANT:**

5. That shipping bills were filed on behalf of M/s Meera Overseas i.e. 6396046 dated 21.08.2019, 6396758 dated 21.08.2019 and 6396697 dated 21.08.2019. The goods were thoroughly examined by the proper officer and two shipping bills were granted LEO on 23.08.2019 i.e. 6396758 dated 21.08.2019 and 6396697 dated 21.08.2019. While the shipping bill No. 6396046 dated 21.08.2019 was directed for 100% SIIB examination due to IGST suspended by the system, as was forwarded to SIIB for further process. Then to their understanding it was found that exporter is trying to avail undue benefit of IGST, for which they had applied for cancellation of the earlier shipping bills i.e. 6396758 dated 21.08.2019 and 6396697 dated 21.08.2019 which were granted LEO by the proper officer. So that the exporter could not get any undue benefit. And also submitted these two shipping bills to SIIB for their further investigation.

5.1 From the above grounds they have brought matter of non-compliance of the other two shipping bills to the proper office.

5.2 As stated in reports they had submitted the KYC to the proper officer 1. IEC Self attested copy 2. GST Certificate Self attested copy 3. PAN self attested copy 4. Bank Account registration form for AD Code Registration 5. KYC form (Bank Attested).

5.3 All the above documents are issued by government authorities and were found valid at that time.

5.4 The Appellant alongwith their appeal set also filed application of condonation of delay under provisions to Section 128(1) of the Customs Act, 1962 requesting therein to condone the delay in filing the appeal against the impugned order on the grounds that due to health issues of the appellant.



## **PERSONAL HEARING:**

6. A personal hearing was granted to the Appellant on 24.04.2025 following the principles of natural justice wherein the authorised representative of the Appellant appeared and reiterated the submissions so made in the appeal and requested to drop the penalty in its entirely so imposed upon them vide the impugned order dated 30.01.2023.

## **DISCUSSION AND FINDINGS:**

7. I have carefully gone through the case records, impugned order passed by the Additional Commissioner, Customs House, Mundra and the defense put forth by the Appellant in their appeal.

I find that the condition of pre-deposit stands fulfilled in respect of the above referred appeal, as the appellant has deposited the pre-deposit of 7.5% of the penalty i.e. Rs.7500/- vide TR-6/GAR7 Challan No. 24 dated 05.04.2023 as prescribed under the Act.

8. That on going through the said material, I find that there are two issues required to be decided in the instant appeal which are as follows:

- i. That condonation of delay application so filed by the appellant is to be allowed or otherwise i.e. whether the appeal is time barred or not.
- ii. That whether the Appellant is liable for penalty for the act done by the exporter.

9. Firstly, I take up the issue of condonation of delay application so filed by the appellant along with the appeal. It is on record that the impugned Order dated 30.01.2023 was received by the appellant on 06.02.2023 as is evident from the tracking of speed post consignment so attached with the appeal. Accordingly, appeal was to be filed within 60 days i.e. latest by 07.04.2023. In the instant case, appeal was filed on 08.05.2023 with a delay of 31 days. Further, it is also on record, that during the personal hearing so held on 16.12.2024 which was attended by Shri Anand M Chudasama, Partner (F Card Holder) of the Appellant was asked to submit reasons for condonation of delay. The appellant vide their letter 23.12.2024 in response to submissions made during the course of personal hearing on 16.12.2024 submitted that they proceeded to submit the application of appeal on 04.05.2023 as per the address so mentioned in preamble of the impugned order dated 30.01.2023 but the Appeal office was relocated to new address. 05.04.2023 was a public holiday on account of Budha Purnima and 6<sup>th</sup> and 7<sup>th</sup> May 2023 being closed holiday being Saturday and Sunday so they filed the instant appeal on the next working day i.e. 08.05.2023.



9.1 As per the provision of Section 128 of Customs Act, 1962, if the Commissioner (Appeals) is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of 60 days, he can allow it to be presented within a further period of 30 days. However, I note that in the present case the last date of condonable period of 30 days was Sunday i.e closed holiday and the appeal was filed on next working day i.e. Monday which was 91st day. The legal provisions as per Section 10 of General Clause Act, 1987 are as under :-

**“ 10. Computation of time.—(1) Where, by any [Central Act] or Regulation made after the commencement of this Act, any act or proceeding is directed or allowed to be done or taken in any Court or office on a certain day or within a prescribed period, then, if the Court or office is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open:**

*Provided that nothing in this section shall apply to any act or proceeding to which the Indian Limitation Act, 1877 (15 of 1877), applies.*

**(2) This section applies also to all 2[Central Acts] and Regulations made on or after the fourteenth day of January, 1887.”**

After taking into account the facts of the above Appeal as well as the legal provision provided in Section 10 of General Clause Act, 1987 cited above, I am of the view that present appeal is to be considered to be filed within condonable period of 30 days . I also place reliance on the case law of **Skoda Auto Volkswagen India Pvt Ltd Vs Commissioner ( Appeals) reported in 2021 (50) GSTL 67(Bom)** wherein in Hon'ble High Court has held as under :-

*“37. At this stage, we may refer to Section 10 of the General Clauses Act. Section 10 reads as under :-*

**“10. Computation of time. - (1) Where, by any Central Act or Regulation made after the commencement of this Act, any act or proceeding is directed or allowed to be done or taken in any Court or office on a certain day or within a prescribed period, then, if the Court or office is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open :**

*Provided that nothing in this section shall apply to any act or proceeding to which the Indian Limitation Act, 1877 applies.*

**(2) This section applies also to all Central Acts and Regulations made on or after the fourteenth day of January, 1887.”**

37.1 The object of this provision was succinctly explained by the Supreme Court in *Harinder Singh v. S. Karnail Singh*, AIR 1957 SC 271 wherein their Lordships stated that the object of this section is to enable a person to do what he could have done on a holiday, on the next working day. Where, therefore, a period is prescribed for the performance of an act in a Court or office, and that period expires on a holiday, then according to this section the

41



act should be considered to have been done within that period, if it is done on the next day on which the Court or office is open. For Section 10 to apply the requirement is that there should be a period prescribed and that period should expire on a holiday. Section 10 itself indicates that this provision is for computation of time. Therefore, if the limitation for filing an appeal or the extended period for filing an appeal expires on Sunday but it is filed on Monday, then by operation of section 10 it would be deemed to have been done within time.

38. We find that 1-12-2019 was a Sunday. Therefore, benefit of this public holiday would be available to the petitioner in terms of Section 10 of the General Clauses Act. Accordingly, the appeal presented on 2-12-2019 would be construed to be within the extended period of limitation, 1-12-2019 being a public holiday. Whether the benefit of the extended period of limitation of one month is to be granted to the petitioner or not is however within the discretion of respondent No. 1."

In view of the above, it is observed that there is delay of 30 days in filing of appeal beyond the time limit of 60 days which is condonable as stipulated under Section 128(1) of the Customs Act, 1962. Therefore, in the interest of justice, I take a lenient view and allow the said appeal filed by the appellant as admitted by condoning the delay of 30 days in filing the appeal beyond the normal period of 60 days under the proviso to Section 128(1) of the Custom Act, 1962.

10. Now I come to the second issue i.e. whether the Appellant is liable for penalty for the act done by the exporter. It is not disputed that Appellant were the authorized custom broker of M/s Meera Overseas and appellant was governed by Customs Broker Licensing Regulations, 2018. Regulation 10(d) and (n) of of the said CBLR, 2018 envisages that:

**"10. Obligations of Customs Broker.— A Customs Broker shall —**

.....  
.....  
(d) advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;

.....  
.....  
(n) verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information;"

From the plain reading of the above said provisions it is crystal clear that a customs Broker has to follow due diligence to ascertain the correctness of any information which he holds/imports from his client with reference to any work related to clearance of cargo. In other words, the Customs Broker should verify



the credentials of his client and functioning of his client and the declared premises/address by using reliable, independent and authentic documents or information as provided under CBLR, 2018.

11. On perusal of the records so available on file and the defence submissions so submitted by the Appellant, I find that the appellant has grossly failed to advise the exporter to comply with the provisions of the Customs Act, 1962 and also failed to bring the non-compliance matter to the notice of the Deputy/Assistant Commissioner of Customs and has failed to exercise due diligence to ascertain the correctness of the exporter. Further, during the course of verification of the exporter by the concerned CGST Commissionerate and as per the verification report, M/s Meera Overseas was found to be a fake taxpayer which shows that the appellant has not verified the credentials of his client and functioning of his client at the declared premises/address. Moreover, it is also on records and as discussed in the impugned Order dated 30.01.2023 that the appellant in their defense submissions have submitted that they were not aware of the facts that the goods intended to be exports were declared overvalued by the exporter for availing undue benefits.

12. Further, adjudicating authority has rightly relied upon the decision in the case of Commissioner of Customs Vs K M Ganatara and Co. in Civil Appeal No. 2940 of 2008 and Hon'ble Tribunal judgment in the case of Rubal Logistics Pvt. Ltd. Vs Commissioner of Customs (General), New Delhi which are squarely applicable in the instant case. Hence, I find that, had the Appellant been vigilant and acted efficiently, the revenue loss of government would have not taken place. As per the evidence on record, it clearly indicates that the Appellant was working in a callous manner to facilitate fraud and violated the obligations cast upon them under CBLR, 2018. The appellant has clearly failed to discharge duties casted upon him and accordingly, I am of the considered view that the appellant is liable to penalty.

13. Accordingly, the impugned order dated 30.01.2023 is upheld and warrants no interference. The appeal filed by the appellant is hereby rejected.



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

F. No. S/49-37/CUS/MUN/2023-24

Date: 29.04.2025

By Registered post A.D/E-Mail  
To,

M/s Shree Malan Shipping,  
Bunder Road, Near Mandvi,  
GMB Port, Mandvi-Kutch,  
Gujarat – 370465

( E-mail-shreemalanshipping@gmail.com)

सत्यापित/ATTESTED

अधीक्षक/SUPERINTENDENT  
सीमा इकल (अपील्स), अहमदाबाद.  
CUSTOMS (APPEALS), AHMEDABAD

## Copy to:

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad. ~~xx~~
2. The Pr. Commissioner of Customs, Customs House, Mundra.
3. The Additional Commissioner of Customs, Custom House, Mundra.
4. Guard File.