



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD,
चौथी मंज़िल 4th Floor, हडको भवन HUDCO Bhawan, ईश्वर भुवन रोड Ishwar Bhuvan Road
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009
दूरभाष क्रमांक Tel. No. 079-26589281

DIN – 20250871MN000000F7F0

क	फाइल संख्या FILE NO.	S/49-163/CUS/AHD/2024-25
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962) :	AHD-CUSTM-000-APP-160-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	07.08.2025
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order – In – Original No. 83/AB/ADC/ICD-SACHIN/SRT/2024-25, dated 28.06.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	07.08.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Zoom Texturisers Pvt. Ltd., 2 nd Floor, Super Tex Tower, Opp. Kinnery Cinema, Ring Road, Surat – 395 002



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 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 भद्र 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 मर्दों के शीर्ष के अधीन आता है में रु. 200/- (रुपए दो सौ मात्र) या रु. 1000/- (रुपए एक हजार मात्र), जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां। यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और 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 :				
	<table border="1"> <tr> <td>सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ</td> <td>Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench</td> </tr> <tr> <td>दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016</td> <td>2nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016</td> </tr> </table>	सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench				
दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016				
5.	सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-				
	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -				
(क)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक 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; पाँच 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)	इम आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के 10% अदा करने पर, जहां शुल्क या शुल्क गांव 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

M/s. Zoom Texturisers Pvt. Ltd., 2nd Floor, Super Tex Tower, Opp. Kinnery Cinema, Ring Road, Surat – 395 002 (hereinafter referred to as "the Appellant") have filed the present appeal against the Order – In - Original No. 83/AB/ADC/ICD-SACHIN/SRT/2024-25, dated 28.06.2024 (herein after referred to as "the impugned order") passed by the Additional Commissioner, Customs, Surat (herein after referred to as "the "adjudicating authority").

2. Facts of the case, in brief, are that the Appellant had imported Capital Goods machinery, i.e., 01 set of i.e., Allma Saurer Model TCS-670, under EPCG Licence No. 5230010839, dated 25.10.2012 by saving duty of Rs. 20,55,000/- (Actual Duty Utilization of Rs. 20,40,640/-) and had cleared the same vide below mentioned Bill of Entry at a concessional rate of duty @ 3% by availing the benefit of exemption available under Notification No. 102/2009 - Cus., dated 11.09.2009. The details of import are as per Table – I below:

TABLE - I

Sr. No.	Bill of Entry No. & Date	Number of machinery cleared	Duty saved / available as per EPCG Licence (In Rs.)	Total Duty Foregone / Debited at the time of clearance (In Rs.)	Bank Guarantee Amount (In Rs.)
1.	8617787, dated 29.11.2012	01	20,55,000/-	20,40,640/-	3,10,000/-

2.1 The Appellant had executed a Bond dated 27.11.2012 for Rs. 65,00,000/- along with Bank Guarantee No. 02811GFIN004312, dated 19.11.2012 amounting to Rs. 3,10,000/- issued by the South Indian Bank Limited, Udhna, Surat for EPCG Licence No. 5230010839, dated 25.10.2012. They had also undertaken to fulfill the conditions of the Bond, EPCG Licence and the relevant Customs Notification at the time of registration of the EPCG License at ICD-Sachin, Surat.

2.2 The said machinery, i.e., 01 set of Allma Saurer Model TCS-670 imported under the aforesaid EPCG Licence were installed at the premises of the Appellant situated at Block No. 455, Plot No. 3 (A), N.H. No. 8, Palsana, Surat, the Appellant in this regard produced Installation Certificate dated 21.02.2013 issued by the Chartered Engineer, Shri B. K. Goel, Surat, certifying the receipt of the goods imported and their installation.

2.3 As per the conditions of Notification No. 102/2009 - Cus., dated 11.09.2009, the Appellant was required to fulfill the export obligation on FOB basis equivalent to six times the duty saved on the goods imported as may be specified on the Licence or Authorization, or for such higher sum as may be fixed or endorsed by the licensing Authority or Regional Authority, within a period of six years from the date of issuance of EPCG Licence or authorization, i.e., complete 50% export obligation within first block of



1st to 4th years and remaining 50% in second block of 5th to 6th years. The EPCG Licence No. 5230010839, dated 25.10.2012 was issued to the Appellant for a period of 6 years, and the Bond dated 27.11.2012 was executed for a period of 10 years. Accordingly, the Appellant was required to fulfill export obligation within a period of 6 years from the date of EPCG Licence as per the condition laid down in the Notification and EPCG Licence itself and submit the Export Obligation Discharge Certificate (EODC) issued by the DGFT Authorities to the department.

2.4 Letters dated 10.01.2022 and 22.02.2022 were issued to the Appellant either to furnish the EODC issued by the DGFT, Surat or any extension granted by the DGFT, Surat for fulfillment of export obligation, which were returned undelivered by the postal authorities.

2.5 As no reply was received from the Appellant, a letter dated 14.09.2022 was issued to the Foreign Trade Development Officer, DGFT, Surat requesting them to intimate whether the Appellant had been issued EODC against the EPCG License No. 5230010839, dated 25.10.2012, or any documents showing the fulfillment of the export obligation have been submitted by the said Appellant. In response, the Assistant Director, Directorate General of Foreign Trade, Surat vide letter F. No. EPCG/Mis./2020-21, dated 21.09.2022 informed that the Appellant had not submitted any documents to them against fulfillment of export obligation.

2.6 In view of the above, it appeared that the Appellant had failed to fulfill the export obligation as specified in the Licence and did not comply with the mandatory condition of the Notification No. 102/2009 - Cus., dated 11.09.2009, the condition of EPCG Licence and Bond dated 27.11.2012. The Appellant neither produced the EODC issued by the DGFT, Surat nor could produce any documents showing extension granted by them for fulfillment of export obligation. Therefore, the Appellant was liable to pay Customs Duty of Rs. 20,40,640/- in respect of the said imported goods along with interest, in terms of conditions of the said Notification read with condition of the Bond executed by them read with Section 143 of the Customs Act, 1962. Further, the Bank Guarantee No. 02811GFN004312, dated 19.11.2012 amounting to Rs. 3,10,000/- issued by the South Indian Bank Limited, Udhna, Surat for EPCG Licence No. 5230010839, dated 25.10.2012 was required to be appropriated against the aforesaid recovery.

2.7 It appeared that the imported goods had not been used for intended purpose for which the exemption from payment of duty was claimed and therefore, the aforesaid Capital goods were liable for confiscation under Section 111 (o) of the Customs Act, 1962 and thus the Appellant has rendered himself liable for penal action under Section 112 of the Customs Act, 1962.

2.8 It appeared that Shri Paresh Chhaganbhai Thummar, Director of the Appellant in connivance with other persons had intentionally taken undue benefits of EPCG Scheme and evaded payment of Customs duty amounting to Rs. 20,40,640/- in

respect of the above Capital goods fraudulently and committed the above mentioned acts knowingly which rendered the said goods in question liable for confiscation under Section 111 (o) of the Customs Act, 1962 and thus it appeared that the above mentioned offence committed by the Appellant with consent and connivance of its Director, Shri Paresh Chhaganbhai, and therefore, it appeared that he rendered himself liable for penalty under the provisions of Section 112 of the Customs Act, 1962.

2.9 Accordingly, a Show Cause Notice was issued to the Appellant, proposing as to why:

- i. The benefit of zero rate of duty EPCG Scheme under Notification No. 102/2009, dated 11.09.2009 on the imported Allma Saurer Model TCS-670 imported in the name of the Appellant should not be denied;
- ii. Customs Duty amounting to Rs. 20,40,640/- being the duty foregone at the time of import under EPCG Licence should not be demanded and recovered from them along with interest in terms of Notification No. 102/2009-Cus., dated 11.09.2009 as amended, read with the conditions of Bond executed and furnished by them in terms of Section 143 of the Customs Act, 1962 by enforcing the terms of the said Bond. Further, why the Bank Guarantee No. 02811GFIN004312, dated 19.11.2012 for Rs. 3,10,000/- backed against the Bond should not be encashed and appropriated towards the duty liability as mentioned above;
- iii. The imported Capital goods should not be held liable for confiscation under Section 111 (o) of the Customs Act, 1962 read with the conditions of Bond executed in terms of Section 143 of the Customs Act, 1962 read with Customs Notification No. 102/2009-Cus., dated 11.09.2009 as amended from time to time;
- iv. Penalty should not be imposed on the Appellant under the provisions of Section 112 of the Customs Act, 1962, for the acts of omission & commission mentioned above;

2.9.1 The Show Cause Notice also proposed penalty upon Shri Paresh Chhaganbhai Thummar, Director of the Appellant under the provision of Section 112 of the Customs Act, 1962, for the acts of omission & commission mentioned above;

2.10 The Adjudicating Authority, vide the impugned order, has passed order as detailed below:

- i. He denied the benefit of zero rate of duty EPCG Scheme under Notification No. 102/2009-Cus., dated 11.09.2009 on the imported Allma Saurer Model TCS-670 imported in the name of the Appellant;
- ii. He confirmed the demand of Customs Duty amounting to Rs. 20,40,640/- being the duty foregone at the time of import of Capital Goods under EPCG Licence in terms of Notification No. 102/2009-Cus., dated 11.09.2009 as amended, read with the conditions of Bond executed along with interest and ordered the same to be



recovered in terms of Section 143 of the Customs Act, 1962 by enforcing the terms of the above mentioned Bond.

- iii. He ordered to appropriate the amount of Rs. 3,10,000/- by encashment of Bank Guarantee No. 02811GFIN004312, dated 19.11.2012 for Rs. 3,10,000/- the issued by the South Indian Bank Limited, Udhna, Surat submitted by the Appellant. He ordered the same are required to be encashed and the amount of Rs. 3,10,000/- deposited in the Government and adjusted towards the duty liability as mentioned above;
- iv. He confiscated the subject imported Capital goods under Section 111 (o) of the Customs Act, 1962 read with the conditions of Bond executed in terms of Section 143 of the Customs Act, 1962 read with Customs Notification No. 102/2009 - Cus., dated 11.09.2009, as amended from time to time. However, he allowed the Appellant an option to redeem the said goods on payment of redemption fine of Rs. 19,73,350/- under Section 125 of the Customs Act, 1962;
- v. He imposed penalty of Rs. 2,04,064/- upon the Appellant under Section 112 (a) of the Customs Act, 1962;
- vi. He imposed penalty of Rs. 2,04,064/- upon Shri Paresh Chhaganbhai Thummar, Director of the Appellant under Section 112 (a) (ii) of the Customs Act, 1962;

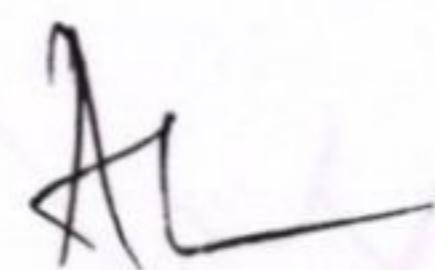
3. Being aggrieved with the impugned order passed by the adjudicating authority, the Appellant have filed the present appeal. The Appellant have, inter-alia, raised various contentions and filed detailed submissions as given below in support of their claims:

- That they had imported Capital goods under EPCG Licence No. 5230010839, dated 25.10.2012. Since, they had fulfilled the export obligation, no govt. dues are pending as on date;
- No interest and penalty should be demanded since they have fulfilled the export obligation;

3.1 The Advocate vide his letter (through email) dated 29.07.2025 has informed that due to unavoidable circumstances and ill health, the appeal was not filed within statutory time limit of 60 days as prescribed under Section 128 (1) of the Customs Act, 1962. Hence, the Advocate has been requested to condone the delay of 02 (two) days in filing the present appeal sympathetically.

PERSONAL HEARING:

4. Personal hearing in the matter was held on 24.06.2025 in virtual mode. Shri Nikhil Jacob Parapurathu, Advocate appeared for hearing on behalf of the Appellant. He reiterated the submissions made in the appeal memorandum. He also filed additional written submissions, wherein, he submitted that:




- The DGFT, New Delhi, EPCG Committee vide 2nd meeting of AM24 held on 30.05.2023 (Case No. 26) considered their request for EO extension upto 31.12.2021, but since they had made some exports after 31.12.2021, they approached Policy Relaxation Committee and DGFT, vide PRC Decision No. 19/AM25, dated 16.10.2024 (Case No. 13) considered their request for Export Obligation (EO) extension upto 30.05.2022. They had already submitted the necessary application to the Jt. DGFT, Surat vide File No. 52EHEPC02866AM26, and the same is currently under process;
- Their Bank Guarantee amounting to Rs. 3,10,000/- had already been encashed by ICD – Customs, vide their letter dated 02.12.2024;
- They further enclosed the following documents in support of their claim:
 - i) Copy of EPCG Committee decision on 30.05.2023
 - ii) Copy of PRC Decision dated 16.10.2024
 - iii) Copy of Customs letter dated 02.12.2024
 - iv) Copy of their letter dated 01.05.2025 submitted to ICD – Sachin
 - v) Copy of Bank letter dated 29.07.2025

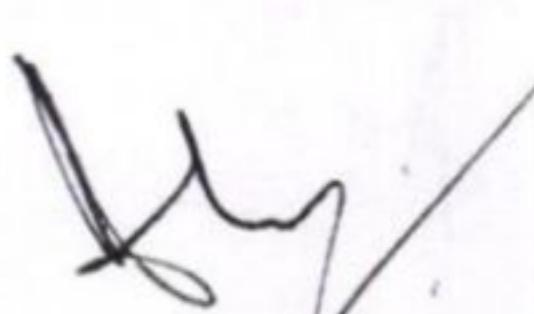
DISCUSSION & FINDINGS:

5. I have carefully gone through the appeal memorandum as well as records of the case and the submission made on behalf of the Appellant during the course of hearing. The issue to be decided in the present appeal is whether the impugned order passed by the adjudicating authority disallowing the benefit of concessional rate of duty under Notification No. 103/2009 - Cus., dated 11.09.2009, confirming the demand of duty along with interest, confiscating the Capital goods under Section 111 (o) of the Customs Act, 1962 and imposing penalty upon the Appellant under Sections 112 (a) and 117 of the Customs Act, 1962, in the facts and circumstances of the case, is legal and proper or otherwise.

6.1 It is observed that the Bank Guarantee Amount of Rs. 3,10,000/- have been encashed, thereby fulfilling the requirement of pre-deposit of filing the appeal as envisaged under the Section 129 E of the Customs Act, 1962.

6.2 It is further observed that there is a delay of 01 (one) day in filing the present appeal. In this regard, it is relevant to refer the legal provisions governing filing an appeal before the Commissioner (Appeals) and his powers to condone the delay in filing appeals beyond 60 days. Extracts of relevant Section 128 of the Customs Act, 1962 are reproduced below for ease of reference:

SECTION 128. Appeals to [Commissioner (Appeals)]. — (1) Any person aggrieved by any decision or order passed under this Act by an officer of customs lower in rank than a [Principal Commissioner of Customs or Commissioner of Customs] may




appeal to the [Commissioner (Appeals)] [within sixty days] from the date of the communication to him of such decision or order.

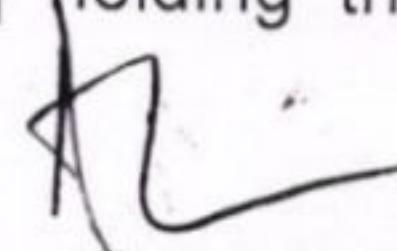
[Provided that the Commissioner (Appeals) may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of sixty days, allow it to be presented within a further period of thirty days.]

6.2.2 Section 128 of the Customs Act, 1962 makes it clear that the appeal has to be filed within 60 days from the date of communication of order. Further, 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.

6.2.3 In light of the above provisions of law and considering the submissions of the Appellant and also considering the fact that the appeal has been filed within a further period of 30 days, I allow the condonation of delay in filing the appeal, taking a lenient view in the interest of justice in the present appeal.

7. It is observed that the Appellant have submitted that since they had made some exports after 31.12.2021, they approached Policy Relaxation Committee (PRC) and the DGFT vide PRC Decision No. 19/AM25, dated 16.10.2024 (Case No. 13) considered their request for Export Obligation (EO) extension upto 30.05.2022. They had already submitted the necessary application to the Jt. DGFT, Surat vide File No. 52EHEPC02866AM26, and the same is currently under process. It has been further contended that they had already fulfilled the export obligation and shall proceed with filing the EODC online, as required. However, it is observed that these facts have been brought before the appellate authority for the first time and the adjudicating authority had no occasion to consider the same. Moreover, the appeal was sent to the adjudicating authority for his comments on the grounds raised in the appeal, but there has been no response. . Hence, I am constraint to remand the matter to the adjudicating authority to pass fresh order after taking into account the outcome of the decision from the DGFT authority in this regard.

8. Therefore, I find that remitting the present appeal to adjudicating authority for passing fresh order, after taking the submissions made by the Appellant in the present appeal on record, and pass fresh order after following principles of natural justice, has become sine qua non to meet the ends of justice. Accordingly, the case is remanded back to the adjudicating authority, in terms of sub- section 3 (b) of Section 128A of the Customs Act, 1962, for passing a fresh order by following the principles of natural justice. 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 Pvt. Ltd. [2012-TIOL-1317-CESTAT-DEL] and Hawkins Cookers Ltd. [2012 (284) E.L.T. 677 (Tri.-Del)] holding 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.

9 In view of above, I set aside the impugned order to the extent of it relates to the Appellant, i.e. M/s Zoom Texturisers Pvt. Ltd. and allow the appeal by way of remand to the adjudicating authority for passing fresh order after considering the submissions made by the Appellant in the present appeal on record. The Adjudicating Authority shall examine the available facts, documents, submissions and issue speaking order afresh following principles of natural justice and legal provisions. No views on merits has been expressed on this order.

10. The appeal preferred by the Appellant is allowed by way of remand.



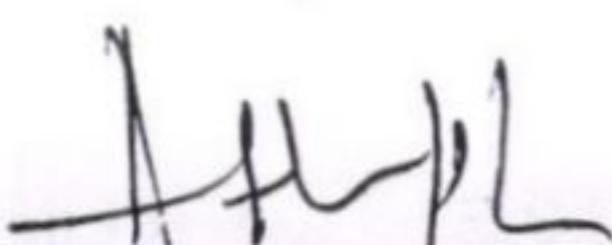
F. No. S/49-163/CUS/AHD/2024-25

सत्यापिता/ATTTESTED

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

2899

By Registered Post A.D


(Amit Gupta)

Commissioner (Appeals),
Customs, Ahmedabad

Date: 07.08.2025

To,

✓ M/s. Zoom Texturisers Pvt. Ltd.,
2nd Floor, Super Tex Tower,
Opp. Kinnery Cinema,
Ring Road,
Surat – 395 002

Shri Nikhil Jacob Parapurathu
Advocate
375, Belgium Square,
Delhi Gate, Ring Road,
Surat – 395 003

Copy to:

- 1. The Chief Commissioner of Customs Gujarat, Custom House, Ahmedabad.
- 2. The Principal Commissioner of Customs, Custom House, Ahmedabad.
- 3. The Additional Commissioner of Customs, Customs House, Surat.
- 4. The Deputy / Assistant Commissioner of Customs, ICD –Sachin, Surat.
- 5. Guard File.