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- 20260671MN000000C7FD

क	फ़ाइल संख्या FILE NO.	F.No. S/49-474/CUS/JMN/2024-25
ख	अपीलआदेश संख्या ORDER-IN-APPEAL No. (सीमाशुल्क अधिनियम, 1962 की धारा 128 क के अंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	JMN-CUSTM-000-APP-21-26-27
ग	पारितकर्ता PASSED BY	SHRI VISHWAJEET SINGH Commissioner of Customs (Appeals), AHMEDABAD
घ	दिनांक DATE	30.06.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER - IN - ORIGINAL NO.	Final Assessment Order No. 111175/2698172/SBY/2024-25 dated 13.11.2024 passed by the Assistant Commissioner of Customs, Customs Division, Bhavnagar.
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	30.06.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT/RESPONDENT:	M/s. Khushboo India Pvt. Ltd. Plot No. V-6, Sosiya Ship Breaking Yard, Sosiya, P.O. Manar, Dist. Bhavnagar. (email: info@kirangroup.in)

1.	यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है.
	This copy is granted free of cost for the private use of the person to whom it is issued.
2.	सीमाशुल्क अधिनियम 1962 की धारा 129 डी डी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो

	इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते है.
	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.
	निम्नलिखित सम्बन्धित आदेश/**Order relating to :**
(क)	बैगेज़ के रूप में आयातित कोई माल.
(a)	**any goods imported on baggage.**
(ख)	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो.
(b)	**Any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.**
(ग)	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी.
(c)	**Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.**
3.	पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :
	The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :
(क)	कोर्ट फी एक्ट,1870 के मद सं.6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए.
(a)	**4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870.**
(ख)	सम्बद्ध दस्तावेज़ों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो
(b)	**4 copies of the Order - In - Original, in addition to relevant documents, if any**
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां
(c)	**4 copies of the Application for Revision.**
(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथासंशोधित) में निर्धारित फीस जोअन्य रसीद,फीस,दण्ड,जब्तीऔर विविध मदों के शीर्षके अधीन आता है में रु. 200/- (रूपए दो सौ मात्र)या रु.1000/- (रूपए एक हज़ार मात्र),जैसा भी मामला हो,से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दोप्रतियां. यदि शुल्क,मांगा गया ब्याज,लगाया गया दंड की राशिऔर रूपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु.200/- और यदि एक लाख से अधिक हो तो फीस के रूप में रु.1000/-
(d)	**The duplicate copy of the T.R.6 challan evidencing payment of Rs. 200/- (Rupees two Hundred only) or Rs. 1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs. 200/- and if it is more than one lakh rupees, the fee is Rs. 1000/-.**
4.	मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बंन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :

	सीमाशुल्क, केंद्रीय उत्पाद शुल्क व सेवा कर अपीलियअधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-	
	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -	
(क)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हज़ार रुपए.	
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;	
(ख)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच हज़ार रुपए	
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;	
(ग)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हज़ार रुपए.	
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees	
(घ)	इस आदेश के विरुद्ध अधिकरण के सामने,मांगे गए शुल्क के 10 % अदा करने पर,जहां शुल्क या शुल्क एवं दंड विवाद में हैं,या दंड के10% अदा करने पर,जहां केवल दंड विवाद में है,अपील रखा जाएगा।	
(d)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute; or penalty, where penalty alone is in dispute.	
6.	उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.	
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal- (a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or (b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.	

कार्यालय आयुक्त (अपील), सीमा शुल्क, अहमदाबाद

ORDER-IN-APPEAL

Brief facts of the case:-

1.1 Present appeal has been filed by M/s. Khushboo India Pvt. Ltd., Plot No. V-6, Sosiya Ship Breaking Yard, Sosiya, P.O. Manar, Dist. Bhavnagar (hereinafter referred to as 'the appellant') in terms of Section 128 of the Customs Act, 1962, on 19.02.2025 against Final Assessment Order No. 111175/ 2698172/SBY/2024-25 dated 13.11.2024 (hereinafter referred to as 'the impugned Final Assessment Order') passed by the Assistant Commissioner of Customs, Custom Division Bhavnagar (hereinafter referred to as 'the adjudicating authority').

1.2. Facts of the case in brief are that the appellant had purchased a vessel MV MEGA for breaking-up and filed a Bill of Entry No. 7074558 dated 13.01.2022. The said Bill of Entry has been finally assessed to duty of **Rs. 14,06,06,038/-** vide the impugned Final Assessment Order. Being aggrieved to the extent of non-consideration of payment made from e-scrips, the appellant has filed this appeal by stating as under (extracts):

1.3 The proper Customs Assessing Officer has assessed to duty provisionally totally to the tune of Rs. 16,03,41,825/-. After making this payment of the customs duty, the proper customs officer had allowed the out of customs charge as required under Section 46 of the Customs Act, 1962. At the time of making provisional assessment, the Appellant had provided the paid up duty of customs in the manner and style as;

(i) Total customs duty of Rs. 14,08,63,113/- (inclusive penalty of Rs. 25,000/-) through e-payment vide Challan No. 2037810372 dated 15.01.2022.

(ii) Duty of customs paid by availing the prescribed facility to pay up the assessed duty from the accumulated "credit" benefit given by the department which was to the tune of Rs. 1,95,03,712/- through e-scrip/s payment. Thus, on payment of the assessed duty of customs, the proper customs authority had allowed out of customs charge of the above referred Bill of Entry for Home Consumption.

1.4 Now, the above referred Bill of Entry has been assessed to duty finally vide Final Assessment Order (FAO) No. 111175/2698172/SBY/2024-25 dated

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13.11.2024 issued from letter F. No. VIII/6(a)-167/2021-22. The above mentioned FAO has been made the final assessment of the duty on the basis of the payment made through e-payment. This e-payment system appears not to have been incorporated such payment of duty of basis customs duty made through such payment of the duty made through e-scrip/s (license). Therefore, it appears that the impugned order appears not to have been passed on the basis of the "paid up duty" in as much as not considered the paid up duty totally to the tune of Rs. 1,95,03,712/- by availing "licit available credit in the nature and style as e-scrip/s" duty. At the time of considering such payment of such duty either paid through e-payment or through e-scrip/s appears not to have been considered at the time of final assessment of subject Bill of Entry vide FAO dated 13.11.2024.

1.5 Therefore, the present appeal is filed being passed the order by gross violating the principle of natural justice. The question of depositing mandatory pre-deposit towards filing an appeal does not arise as no revenue implication involved in the matter.

2. **GROUNDS OF APPEAL:**

2.1 The Appellant submitted that the impugned order appears to have been passed by gross violating the principle of natural justice so far as not considering the paid up basis custom duty paid by availing the facility of availment of "e-scrip/s payment". In other words, the impugned order appears to have been passed as "ex-parte".

2.2 The limited issue is to decide whether basis customs duty paid by availing e-scrip/s is to be treated as "paid up duty of customs or not"?

2.3 In the present case, the total custom duty had been assessed to duty totally to the tune of Rs. 16,03,41,825/-. This duty has been paid in the following manner;

(i) Total customs duty of Rs. 14,08,63,113/- (inclusive penalty of Rs. 25,000/-) through e-payment vide Challan No. 2037810372 dated 15.01.2022,

(ii) Duty of customs paid by availing the prescribed facility to pay up the assessed duty from the accumulated "credit" benefit given by the department which was to the tune of Rs. 1,95,03,712/- through e-scrip/s payment. Thus, on payment of the assessed duty of customs, the proper customs authority had allowed out of customs charge of the above referred Bill of Entry for Home Consumption.

2.4 Accordingly, granted the order for out of custom charge. This submission is the vital submission in the present case. But, the adjudicating authority has grossly erred in not considering the paid up duty of Rs. 1,95,03,712/- paid through e-scrip/s cum advance license. The above known inclusion of the paid up duty paid through e-scrip/s is to be termed as gross violation of assessment of custom duty as required to be assessed duty under the provisions of the Section 17 of the Customs Act, 1962. The so called "e-scrip/s payment" was to be considered as "paid up duty" of basis customs duty. But, this nature of payment appears not to have been considered at the making of the final assessment of the subject Bill of Entry. Therefore, the impugned order is not proper, correct and legal."

2.5 In view of the above detailed submissions, the appellant prayed to set aside the impugned order and remand back the issue under dispute to decided afresh after giving an opportunity to be heard in person so as to principle of natural justice of the appellant may be safe guarded.

Personal Hearing :

3.1 Personal hearing in matter was granted on 26.05.2026. Shri N K Maru, Consultant appeared on behalf of the Appellant and re-iterated written submission made at the time of filing appeal. Shri. N. K. Maru, Consultant (Retired Superintendent) during the course of personal hearing submitted additional submissions dated 25.05.2026. Extracts from the same are as follows:

"The so assessed customs duty at the material time was required to be paid in accordance with the provisions of section 46 of the Customs Act, 1962. As well also provided that such "earned Advance License purchase from the open market" as had been issued under the respective provisions of Import Export Policy prevailing at the material time. On perusing the bill of entry, it has clearly been mentioned therein that the assessing officer had accepted that your Appellant had paid up total customs duty to the tune of Rs. 14,08,63,113/- through Challan e-payment system. In addition to this the renaming amount of Rs. 1,95,03,712/- has

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been paid through procurement of Earned Advance license from the open market. This type of payment has been accepted by the Department. Therefore, the proper Customs Officer had "allowed out of customs charges" as provided under Section 46 of Customs Act, 1962."

3.2 The Appellant further submitted that in the above submissions the department has accepted that Appellant had also paid up due customs duty totally to Rs. 1,95,03,712/-. This payment is over and above such duty of customs paid through stated TR-6 Challan.

3.3 From the above submissions it appears that the assessing officer appears not to had been taken in to consideration the paid up customs duty totally to the duty of Rs. 1,95,03,712/- to arrive the concept of final assessment of customs duty. If Appellant would have been paid this duty through e payment/TR6 challan as the case may be than naturally your appellant would entitled to get such benefit of more paid up duty as being consider presently in other such cases. i.e. in the nature and style as more/excess paid up duty.

3.4 Further it has also been found on record that such paid up duty paid through availment of Advance License appear not to had been taken in to consideration. Therefore, this concept of paid up duty through e scrip was required to be taken in to consideration while passing FAO dated 13.11.2024. From the above details submissions, no such principle of natural justice appears not to had been followed. If your appellant would have been intimated the process of making final assessment than your appellant would have been explain such status of payment of such customs duty, as discussed in foregoing para.

3.5 Therefore, the Appellant requested to allow this appeal with a pray to order to remand back the case to the Adjudicating Authority for re deciding the case after giving an opportunity to be heard in person by your appellant."

Discussion and Findings:

4.1 One set of the appeal memorandum was forwarded to the adjudicating authority for comments vide this office letters dated 05.06.2025. However, no reply thereof has been received.

4.2 The present appeal has been filed against the impugned Final Assessment Order and no short-payment or demand of duty has been involved. So, Pre-

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deposit for filing appeal under Section 129E does not require.

4.3 The date of receipt of the impugned order dated 13.11.2024 has been mentioned by the appellant as "23.11.2024", whereas the present appeal has been received on 19.02.2025. An email was send to the Custom Division office, Bhavnagar to provide postal outward details of the OIO. The division office vide mail dated 20.6.2026 that the OIO was dispatched vide postal code no. RG399692515N. Further, the Appellant vide letter mail dated 29.06.2026 submitted letter dated 29.06.2026 of the Superintendent of Post Offices, Bhavnagar wherein it has been categorically mentioned that the article No. RG399692515N was delivered on 23.11.2024 therefore, the submission made by the Appellant regarding date of receipt of OIO appears to genuine. Thus, the appeal has been filed on 88th day from the date of receipt of impugned order, resulting into delay of 28 days beyond the normal period of 60 days for filing of appeal, as prescribed under Section 128(1) of the Customs Act, 1962. The appellant has submitted an application dated 26.05.2026 for condonation of delay in filing of appeal.

4.4 As regards condonation of delay up to a period of 30 days in filing appeals, I refer the Judgment of Hon'ble Supreme Court in the case of Collector, Land Acquisition Anantnag and Another vs. Mst. Katiji and Others reported in 1987 (28) ELT 185 (SC), wherein it has been held that a justifiable liberal approach should be adopted in cases of condonation of delay. In view of the above position, I condone the delay of 28 days in filing the Appeal, as per the first proviso to Section 128(1) of the Customs Act, 1962.

4.5 I have carefully gone through the written submissions and oral submissions made by or on behalf of the appellant viz. M/s. Khushboo India Pvt. Ltd. I find that at the end of the impugned Bill of Entry No. 7074558 dated 13.01.2022, particulars of various Licence has been listed as "Licence Details" with show Licence No. & Date, Reg. No. & Date, Debit Value/Qty. and Debit duty. Whereas, the impugned Final Assessment Order is silent about payment of duty through Licence/Scrip. There is no mention about granting opportunity of personal hearing in the impugned order. Therefore, I find that the impugned final assessment order cannot considered to be a speaking order and it has been passed without following principles of natural justice, as rightly contended by the appellant.

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4.6 I find that the present case falls under the provisions of Section 128A(3)(b)(i), which states that where an order or decision has been passed without following the principles of natural justice, the Commissioner (Appeals) may refer the matter back to the adjudicating authority with directions for fresh adjudication or decision. Accordingly, I set aside the impugned Final Assessment Order and remand the matter back to the adjudicating authority for passing fresh order after following the principles of natural justice.

4.7 The appellant should submit written submissions covering all the issues to the adjudicating authority within a reasonable time with reference to this order and the adjudicating authority shall examine the same and thereafter pass a fresh Final Assessment Order discussing all the contentions of the appellant.

4.8. In view of the above facts and discussion, I pass the following order:

::ORDER::

I set aside the impugned Final Assessment Order No. 111175/ 2698172/SBY/2024-25 dated 13.11.2024 in respect of Bill of Entry No. 7074558 dated 13.01.2022 filed by M/s. Khushboo India Pvt. Ltd. and remand the matter to the Assistant Commissioner of Customs, Division Bhavnagar, with direction to pass Final Assessment Order in terms of the directions given in this Order. The appeal is allowed by way of remand without expressing any view of merits.

कार्यालय आयुक्त (अपील), सीमा शुल्क, अहमदाबाद

Vishwajeet Singh 30.06.2026.

(Vishwajeet Singh)
Commissioner (Appeals),
Customs, Ahmedabad
Date: 30.06.2026

F.No. S/49-474/CUS/JMN/2024-25

By Speed Post / E-mail (As per Section 153(1)(b)&(c) of the Customs Act, 1962)

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

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

Copy to: (By E-mail only)

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

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

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

4. Shri. N. K. Maru, Consultant, Customs & Central Excise.
(email: umarqureshi507@yahoo.com)

5. Guard File.

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