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-20260271MN0000000E42

क	फ़ाइल संख्या FILE NO.	F.No. S/49-128/CUS/AHD/JULY/2025-26
ख	अपीलआदेश संख्या ORDER-IN-APPEAL No. (सीमाशुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	AHD-CUSTM-000-APP-550-25-26
ग	पारितकर्ता PASSED BY	SHRI AMIT GUPTA Commissioner of Customs (Appeals), AHMEDABAD
घ	दिनांक DATE	04.02.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER - IN - ORIGINAL NO.	Re-assessment of Bill of Entry No. 9807975 dated 01.05.2025 filed with Customs, ICD-Khodiyar.
	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	04.02.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. NPE Pumps Pvt. Ltd. 75, Gangotri Estate, Near Vatva Ramol Bridge, Phase 4, GIDC, Vatva, Ahmedabad – 382445.

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/-.

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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.**	

ORDER-IN-APPEAL

M/s. NPE Pumps Pvt. Ltd., 75, Gangotri Estate, Near Vatva Ramol Bridge, Phase 4, GIDC, Vavta, Ahmedabad – 382445 (hereinafter referred to as 'the appellant') has filed the present appeal against re-assessment of Bill of Entry No. 9807975 dated 01.05.2025 filed with Customs, ICD-Khodiyar (hereinafter referred to as 'the impugned Bill of Entry).

2. Facts of the case as per the appeal memorandum, in brief, are that the appellant has filed the impugned Bill of Entry for import of Polyvinylidene Fluoride ('PVDF' for short) from China. The appellant has classified the goods under CTI 3904 6910. Subsequently, a Customs officer raised query on 26.05.2025, regarding applicability of Anti-Dumping Duty (ADD) in terms of Notification No. 40/2020-Customs (ADD) dated 27.11.2020. The appellant submitted a reply dated 29.05.2025, clarifying that the imported goods are Polyvinylidene Fluoride (PVDF) and not Fluoroelastomers (FKM), to which the said notification levying ADD applies. Thereafter, Customs Department got conducted a Technical Examination of the imported goods. The Test Report, in respect of Test Memo dated 05.06.2025 contains the Lab Report as follows:

> *"The sample is in the form of translucent small pallets. It has characteristics of PVDF. Sealed remnant returned."*

3. It is the case of the appellant that despite the conclusive test results, the Customs authorities, carried out re-assessment of the said Bill of Entry; applied Anti-Dumping Duty (ADD) under Notification No. 40/2020-Customs (ADD) dated 27.11.2020, which covers only Fluoroelastomers (FKM). Further, the appellant has stated that they have submitted a written request vide letter dated 28.06.2025 for a Speaking Order under Section 17(5) of the Customs Act, 1962. However, no such Speaking Order has been issued. Being aggrieved against impugned Re-assessed Bill of Entry, by which Anti-Dumping Duty on PVDF was charged, the appellant preferred the present appeal on the following grounds.

4. The appellant submitted that at the outset, the re-assessment order dated 20-6-2025 is contrary to section 17(5) of the Customs Act, 1962. There is no speaking order passed in terms of section 17(5). On this ground alone, the impugned re-assessment of

Bill of Entry is liable to be set aside. Without prejudice to aforesaid, the following submissions have been advanced by the appellant.

4.1. <u>Incorrect Classification and Imposition of ADD:</u>

The Learned Assessing Authority has wrongly levied Anti-Dumping Duty (ADD) on the imported product Polyvinylidene Fluoride (PVDF) under Notification No. 40/2020-Customs (ADD) dated 27.11.2020, which specifically applies to Fluoroelastomers (FKM). The product imported by appellant is not covered under the said notification and hence no ADD is leviable.

4.2. <u>Material and Technical Distinction Between PVDF and FKM:</u>

Structure: PVDF is a thermoplastic, whereas FKM is a synthetic rubber elastomer (rubber). Properties: PVDF has pyroelectric and piezoelectric characteristics and lower temperature resistance; FKM is known for high-temperature and chemical resistance. Applications: PVDF is used in chemical tanks, membranes, and electronic components, while FKM is used in automotive, aerospace, and petrochemical industries for seals, gaskets, and O-rings.

4.3. <u>Laboratory Test Confirms Product as PVDF:</u>

The test report clearly identifies the imported material as PVDF. This scientific verification further supports that the product is not a Fluoroelastomers and is not subject to notified ADD.

4.4. <u>Absence of Specific Inclusion in the Notification:</u>

The description of goods in Column 3 of Notification No. 40/2020-Customs (ADD) mentions only "Fluoroelastomers" and does not include or refer to PVDF. As per settled legal principles, a product not expressly covered by an ADD notification cannot be subjected to such duty. Any such inclusion by inference or assumption is impermissible in law.

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4.5. Doctrine of Strict Interpretation of Taxing Statutes:

It is well established in law that fiscal notifications must be strictly interpreted, and in case of any ambiguity, the benefit must go to the assessee. Extending ADD to PVDF, which is not specifically mentioned, is beyond the scope of the notification and law.

4.6. Violation of Principles of Natural Justice and Procedural Fairness:

The reassessment of the Bill of Entry was carried out without issuance of a speaking order as required under Section 17(5) of the Customs Act, 1962, despite the appellant's written request is not tenable. This constitutes a clear violation of the principles of natural justice, as the appellant was neither informed of the reasons for reassessment nor given an opportunity to respond through a reasoned order. Such procedural irregularity renders the reassessment order arbitrary and unsustainable in law.

5. In view of the above submissions, the appellant has requested to set aside the Re-assessment of the impugned Bill of Entry by which Anti-Dumping Duty was made applicable and order to restore the original self-assessment.

6. One set of the appeal memorandum has been sent to the Assistant Commissioner of Customs, ICD-Khodiyar, vide this office letter dated 26.08.2025 for comments on this appeal. In the said letter, it was also asked that whether the appellant has confirmed his acceptance of re-assessment in writing as per Section 17(5) of the Customs Act, 1962. However, no reply thereof has been received. So, I proceed to the decide the appeal on the basis of documents submitted by the appellant.

ADMISSION OF APPEAL

7. As this appeal has been filed against assessment of Anti-Dumping Duty, which is stated to have been paid before clearance of goods, Pre-Deposit under the provisions of Section 129E of the Customs Act, 1962, is not required.

8. In the Form No. CA-1, the date of communication of decision has been shown as "25.06.2025". However, from the copy of the Bill of Entry No. 9807975 dated 01.05.2025, I find that it was re-assessed on 20.06.2025. The appeal against assessment (including

re-assessment) is required to be filed within 60 days from the date of communication of assessment as per Section 128(1) of the Customs Act, 1962. So, it is to be ascertained on which date the assessment/re-assessment of the impugned Bill of Entry has been communicated to the appellant. Section 153 of the Customs Act, 1962, prescribes modes for services of notice, order etc. As per clause (ca) of Sub-Section (1) of Section 153, an order, decision, etc. may be served by making it available on the common portal. As per Section 2(7B) of the Customs Act, 1962, the term 'common portal' has been defined as Common Customs Electronic Portal referred to in Section 154C. Notification No. 33/2021-Cus (NT) dated 29.03.2021 has been issued under the provisions of Section 154C, through which the URL ***https://icegate.gov.in*** has been notified as 'common portal'. So, I am of the view that the assessment/re-assessment of Bill of Entry done through Customs EDI System and made available in the common portal ICEGATE is to be treated as served to the appellant as per the provisions of Section 153(1)(ca) of the Customs Act, 1962, as amended by the Finance Act, 2021. So, the appellant was required to file appeal within the normal period of 60 days from the date the assessment/re-assessment, which is "20.06.2025". Whereas, the present appeal has been filed on 15.07.2025, i.e. within normal period of 60 days, as prescribed under Section 128(1) of the Customs Act, 1962.

9. In view of the above position, the appeal has been admitted and being taken up for disposal.

PERSONAL HEARING:

10. The appellant has filed an application for early hearing. Personal Hearing in this matter was held on 27.01.2026, which has been attended by Shri. Rahul Gajera, Advocate, on behalf of the appellant. He reiterated the submissions made in the appeal memorandum.

DISCUSSION & FINDINGS

11.1 I find that in reply to the query raised during verification of self-assessment, the appellant had sent a letter dated 29.05.2025, in which the appellant submitted, inter alia, to the effect that in absence of specific inclusion of variant of fluoropolymer viz. PVDF, in the charging Notification, Anti-Dumping Duty is not attracted. Therefore, the appellant has requested the assessing officer to clear the goods without applying ADD. Thus, it is

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clear that the appellant has not accepted the re-assessment in writing and therefore, the proper officer was required to pass speaking order on the re-assessment of Bill of Entry within 15 days from the date of re-assessment, as prescribed under Section 17(5) of the Customs Act, 1962, which are as follows:

> *"(5) Where any reassessment done under sub-section (4) is contrary to the self-assessment done by the importer or exporter and in cases other than those where the importer or exporter, as the case may be, confirms his acceptance of the said reassessment in writing, the proper officer shall pass a speaking order on the reassessment, within fifteen days from the date of re-assessment of the bill of entry or the shipping bill, as the case may be."*

11.2 Despite of the above-mentioned statutory provision, no speaking order has been passed in the present case. The facts and reasons behind not following the aforesaid provisions by the assessing officer, are not available on record. Some of the contentions raised in the appeal memorandum have been raised for the first time in writing in this appeal. The adjudicating authority / assessing officer had no occasion to consider the same.

12. As per the provisions of Section 128A(3)(b)(ii), where no order or decision has been passed after re-assessment under Section 17, the Commissioner (Appeals) may refer the matter back to the adjudicating authority with directions for fresh adjudication or decision. As no speaking order has been passed in this case, I find that remitting the case to the proper officer for passing speaking order becomes *sine qua non* to meet the ends of justice.

13. In view of the above position, I am of the view that the present appeal filed by M/s. NPE Pumps Pvt. Ltd. is liable to be remanded to the adjudicating authority, i.e. Deputy/Assistant Commissioner of Customs, ICD-Khodiyar, for passing speaking order of assessment in terms of Section 17(5) of the Customs Act, 1962.

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

ORDER

14.1 I set aside the Re-assessment of Anti-Dumping Duty as per Notification No. 40/2020-Customs (ADD) for the impugned Bill of Entry No. 9807975 dated 01.05.2025 and direct the Deputy/Assistant Commissioner of Customs, ICD-Khodiyar, to re-assess the impugned Bill of Entry by passing Speaking Order of assessment in terms of Section 17(5) of the Customs Act, 1962. The said Speaking Order should be passed and communicated to the appellant within a period of three months from the date of receipt of this order.

14.2 The appeal is allowed by way of remand.

14.3 While passing this order, no opinion or views have been expressed on merits of the case.

(Amit Gupta)
Commissioner (Appeals),
Customs, Ahmedabad

F.No. S/49-128/CUS/AHD/2025-26 Date: 04.02.2026

By E-mail (As per Section 153(1)(c) of the Customs Act, 1962)

To
M/s. NPE Pumps Pvt. Ltd.
75, Gangotri Estate, Near Vatva Ramol Bridge,
Phase 4, GIDC, Vavta, Ahmedabad – 382445
(email: sales@nirmalapumps.com , anilajmera2006@yahoo.co.in)

Copy to:

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

2. The Principal Commissioner of Customs, Custom House, Ahmedabad.
(email: cus-ahmd-guj@nic.in rra-customsahd@gov.in)

3. The Deputy/Assistant Commissioner of Customs, ICD-Khodiyar.
(email: icdkhd-ahd@gov.in)

4. Shri. Rahul Gajera, Advocate, Ahmedabad.
(email: rahulgajera1982@gmail.com)

5. Guard File.

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