



प्रधान आयुक्त का कार्यालय, सीमा शुल्क, अहमदाबाद
सीमा शुल्क भवन, आल इंडीया रेडीऑ के बाजु मे, नवरंगपुरा, अहमदाबाद 380009
दुर भाष (079) 2754 46 30 फैक्स (079) 2754 23 43
OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, AHMEDABAD
CUSTOMS HOUSE, NEAR ALL INDIA RADIO, NAVRANGPURA, AHMEDABAD 380009
PHONE : (079) 2754 46 30 FAX (079) 2754 23 43

निबन्धित पावती डाक द्वारा / BY SPEED POST A.D.

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आदेश की तारीख/Date of Order : 13.01.2026
जारी करने की तारीख/Date of Issue : 13.01.2026

द्वारा पारित :-
Passed by :-

शिव कुमार शर्मा , प्रधान आयुक्त
Shiv Kumar Sharma, Principal Commissioner

मूल आदेश संख्या :

Order-In-Original No: AHM-CUSTM-000-PR.COMMR-43-2025-26 Dated 13.01.2026 in the case of M/s. Hindalco Industries Limited (Unit: Birla Copper), P.O. Lakhigram, Village Dahej, Taluka Vagra, District Bharuch-392130.

- 1 जिस व्यक्ति(यों) को यह प्रति भेजी जाती है, उसे व्यक्तिगत प्रयोग के लिए निःशुल्क प्रदान की जाती है।
1. This copy is granted free of charge for private use of the person(s) to whom it is sent.
2. इस आदेश से असंतुष्ट कोई भी व्यक्ति इस आदेश की प्राप्ति से तीन माह के भीतर सीमा शुल्क, उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण, अहमदाबाद पीठ को इस आदेश के विरुद्ध अपील कर सकता है। अपील सहायक रजिस्ट्रार, सीमा शुल्क, उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण, दुसरी मंज़िल, बहुमाली भवन, गिरिधर नगर पुल के बाजु मे, गिरिधर नगर, असारवा, अहमदाबाद-380 004 को सम्बोधित होनी चाहिए।
2. Any person deeming himself aggrieved by this Order may appeal against this Order to the Customs, Excise and Service Tax Appellate Tribunal, Ahmedabad Bench within three months from the date of its communication. The appeal must be addressed to the Assistant Registrar, Customs, Excise and Service Tax Appellate Tribunal, 2nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Girdhar Nagar, Asarwa, Ahmedabad - 380004.
3. उक्त अपील प्रारूप सं. सी.ए.3 में दाखिल की जानी चाहिए। उसपर सीमा शुल्क (अपील) नियमावली, 1982 के नियम 3 के उप नियम (2) में विनिर्दिष्ट व्यक्तियों द्वारा हस्ताक्षर किए जाएंगे। उक्त अपील को चार प्रतियों में दाखिल किया जाए तथा जिस आदेश के विरुद्ध अपील की गई हो, उसकी भी उतनी ही प्रतियाँ संलग्न की जाएँ (उनमें से कम से कम एक प्रति प्रमाणित होनी चाहिए)। अपील से सम्बंधित सभी दस्तावेज भी चार प्रतियों में अग्रेषित किए जाने चाहिए।

3. The Appeal should be filed in Form No. C.A.3. It shall be signed by the persons specified in sub-rule (2) of Rule 3 of the Customs (Appeals) Rules, 1982. It shall be filed in quadruplicate and shall be accompanied by an equal number of copies of the order appealed against (one of which at least shall be certified copy). All supporting documents of the appeal should be forwarded in quadruplicate.
4. अपील जिसमें तथ्यों का विवरण एवं अपील के आधार शामिल हैं, चार प्रतियों में दाखिल की जाएगी तथा उसके साथ जिस आदेश के विरुद्ध अपील की गई हो, उसकी भी उतनी ही प्रतियाँ संलग्न की जाएंगी (उनमें से कम से कम एक प्रमाणित प्रति होगी)।
4. The Appeal including the statement of facts and the grounds of appeal shall be filed in quadruplicate and shall be accompanied by an equal number of copies of the order appealed against (one of which at least shall be a certified copy.)
5. अपील का प्रपत्र अंग्रेजी अथवा हिन्दी में होगा एवं इसे संक्षिप्त एवं किसी तर्क अथवा विवरण के बिना अपील के कारणों के स्पष्ट शीर्षों के अंतर्गत तैयार करना चाहिए एवं ऐसे कारणों को क्रमानुसार क्रमांकित करना चाहिए।
5. The form of appeal shall be in English or Hindi and should be set forth concisely and under distinct heads of the grounds of appeals without any argument or narrative and such grounds should be numbered consecutively.
6. केंद्रीय सीमा शुल्क अधिनियम, 1962 की धारा 129 ए के उपबन्धों के अंतर्गत निर्धारित फीस जिस स्थान पर पीठ स्थित है, वहां के किसी भी राष्ट्रीयकृत बैंक की शाखा से न्यायाधिकरण की पीठ के सहायक रजिस्ट्रार के नाम पर रेखांकित माँग ड्राफ्ट के जरिए अदा की जाएगी तथा यह माँग ड्राफ्ट अपील के प्रपत्र के साथ संलग्न किया जाएगा।
6. The prescribed fee under the provisions of Section 129A of the Customs Act, 1962 shall be paid through a crossed demand draft, in favour of the Assistant Registrar of the Bench of the Tribunal, of a branch of any Nationalized Bank located at the place where the Bench is situated and the demand draft shall be attached to the form of appeal.
7. इस आदेश के विरुद्ध सीमा शुल्क, उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण में शुल्क के 7.5% जहां शुल्क अथवा शुल्क एवं जुर्माना का विवाद है अथवा जुर्माना जहां शीर्ष जुर्माना के बारे में विवाद है उसका भुक्तान करके अपील की जा सकती है।
7. An appeal against this order shall lie before the Tribunal on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute”.
8. न्यायालय शुल्क अधिनियम, 1870 के अंतर्गत निर्धारित किए अनुसार संलग्न किए गए आदेश की प्रति पर उपयुक्त न्यायालय शुल्क टिकट लगा होना चाहिए।
8. The copy of this order attached therein should bear an appropriate court fee stamp as prescribed under the Court Fees Act, 1870.

Subject: Application for amendment/Conversion of Shipping Bill filed under for conversion of the 48 Shipping Bills from Advance Authorisation to Duty Drawback Scheme under Section 149 of Customs Act, 1962 by M/s. Hindalco Industries Limited (Unit: Birla Copper), P.O. Lakhigram, Village Dahej, Taluka Vagra, District Bharuch-392130.

BRIEF FACTS OF THE CASE:-

M/s Hindalco Industries Limited (Unit: Birla Copper), IEC No. 0388147237, located at P.O. Lakhigram, Village Dahej, Taluka Vagra, District Bharuch-392130 (hereinafter referred to as "the exporter"), exported Copper Cathodes during March 2024 under Advance Authorisation No. 3411004653 dated 29.02.2024, covering a total of 48 Shipping Bills as tabulated below:

Table-A

Sr. .No.	Shipping Bill No.	Shipping Bill Date	Date of Let Export Order
1	8202335	11/3/2024	12/3/2024
2	8230888	11/3/2024	12/3/2024
3	8246603	12/3/2024	13/3/2024
4	8246849	12/3/2024	13/3/2024
5	8247042	12/3/2024	13/3/2024
6	8247226	12/3/2024	13/3/2024
7	8247887	12/3/2024	13/3/2024
8	8258991	12/3/2024	13/3/2024
9	8260590	12/3/2024	13/3/2024
10	8272049	13/3/2024	14/3/2024
11	8303978	14/3/2024	15/3/2024
12	8367878	16/3/2024	16/3/2024
13	8367999	16/3/2024	16/3/2024
14	8368162	16/3/2024	16/3/2024
15	8368704	16/3/2024	16/3/2024
16	8368874	16/3/2024	16/3/2024
17	8376202	16/3/2024	18/3/2024
18	8389988	16/3/2024	18/3/2024
19	8399094	18/3/2024	18/3/2024
20	8399095	18/3/2024	18/3/2024
21	8399096	18/3/2024	18/3/2024
22	8399098	18/3/2024	18/3/2024
23	8412689	18/3/2024	19/3/2024
24	8415761	18/3/2024	19/3/2024
25	8476724	20/3/2024	21/3/2024
26	8476739	20/3/2024	21/3/2024
27	8477180	20/3/2024	21/3/2024
28	8492325	20/3/2024	21/3/2024
29	8494679	20/3/2024	21/3/2024
30	8503090	21/3/2024	22/3/2024
31	8510474	21/3/2024	22/3/2024
32	8543003	22/3/2024	23/3/2024
33	8543162	22/3/2024	23/3/2024
34	8543314	22/3/2024	23/3/2024
35	8551023	22/3/2024	26/3/2024
36	8565117	22/3/2024	26/3/2024
37	8572007	23/3/2024	26/3/2024
38	8572089	23/3/2024	26/3/2024
39	8574751	23/3/2024	26/3/2024
40	8583125	23/3/2024	26/3/2024
41	8587457	23/3/2024	26/3/2024
42	8598665	23/3/2024	26/3/2024
43	8598825	23/3/2024	26/3/2024
44	8604459	24/3/2024	26/3/2024
45	8604489	24/3/2024	26/3/2024
46	8604752	24/3/2024	26/3/2024
47	8605838	24/3/2024	26/3/2024
48	8631356	26/3/2024	27/3/2024

2.1. The exporter, vide their letter dated 12.08.2025 received on 20.08.2025, submitted that Copper Ores and Concentrates is a major raw material for manufacture of copper products and Advance Authorisation No. 3411004653 dated 29.02.2024 had been issued to them for duty-free import of 25,000 DMT of Copper Ores and Concentrates (ITC HS 26030000) having copper content of 7,500 MT, and the said licence is registered at Dahej Port. The exporter further submitted that as per prevailing practice where specific conditions are not annexed with Advance Authorisation i.e. pre-import, they tend to do the export first and thereafter import the raw materials in proportion to export quantity to avoid any non-compliance in dischargement of export obligation.

2.2. The exporter further stated that during the month of March-2024, they exported goods of Qty. 4,116.673 MT of Copper Cathodes under the said authorisation from Hazira Port; however, the Advance Authorisation could not be utilised owing to circumstances beyond their control and subsequently, vide Notification No. 36/2024-Customs dated 23.07.2024, effective from 24.07.2024, the rate of basic customs duty on Copper Ores and Concentrates (ITC (HS) 26030000) was reduced to Nil. The exporter further informed that no imports had been made against the said authorisation by them, which fact is verifiable from the ICEGATE/Customs EDI system. Further, the exporter sought conversion of the 48 Shipping Bills from Advance Authorisation Scheme to Duty Drawback (DBK) Scheme under Section 149 of the Customs Act, 1962. It was further submitted that All Industry Rate of Duty Drawback for their finished goods i.e. Copper Cathodes, at the relevant time was at the rate of 1.2%.

2.3. Further, the exporter vide letter dated 18.09.2025 received at Hazira Port on 22.09.2025, requested for consideration for condonation of delay in filing the application for conversion of 48 Shipping Bills from Advance Authorization to Drawback Shipping Bills under Section 149 of the Customs Act, 1962 and extension of the drawback benefits. The exporter also undertook to pay amendment charges at the rate of Rs. 1,000/- per Shipping Bill, amounting to Rs. 48,000/- in total for the 48 Shipping Bills, in accordance with the Customs (Fees for Amendment of Documents) Regulations.

3.1. The Assistant Commissioner, Hazira (Export) submitted that the exporter had exported Copper Cathodes during March 2024 under 48 Shipping Bills filed under the Advance Authorisation Scheme and had requested conversion of the said Shipping Bills to the Duty Drawback Scheme under Section 149 of the Customs Act, 1962. It was further reported by the Assistant Commissioner, Hazira (Export) that it was verified through the EDI/ICEGATE system that no imports had been made against Advance Authorisation No. 3411004653 dated 29.02.2024, hence, the said Advance Authorisation remained unutilised. It is also reported by the Assistant Commissioner, Hazira (Export) that as no import was effected by the exporter against the said Advance Authorization underwhich the exporter was eligible for duty free import of the raw material and now requested for conversion of shipping

bills from Advance Authorization Scheme to Drawback Scheme, thereby, the request is revenue neutral.

3.2. Further, AC, Hazira (Export) observed that Notification No. 21/2025-Cus., dated 03.04.2025, provides that conversion of Shipping Bills may be authorised by the jurisdictional Principal Commissioner of Customs within one year, with discretionary power to condone delay up to six months. In the present case, the application was filed on 12.08.2025 (received on 20.08.2025), i.e., after more than one year from the date of clearance of the export goods. However, the delay falls within the maximum condonable limit of 545 days (365 + 180 days) as allowed in terms of proviso to paragraph 3 of Notification No. 21/2025-Cus., dated 03.04.2025, and the exporter has also submitted a request for condonation of delay along with an undertaking to pay amendment fees of Rs. 1,000 per Shipping Bill.

3.3. Further, the Assistant Commissioner, Hazira (Export) reported that the request for conversion of the 48 Shipping Bills from Advance Authorisation to Duty Drawback appeared to be in order, subject to consideration of the request for condonation of delay by the Hon'ble Principal Commissioner.

4.1. In the instant case, exports were effected during March 2024 under the aforesaid 48 Shipping Bills against Advance Authorisation No. 3411004653 dated 29.02.2024.

4.2. The said Advance Authorisation was issued for duty-free import of 25,000 DMT of Copper Concentrates (ITC HS 26030000) having copper content of 7,500 MT.

4.3. However, the exporter could not utilise the said Advance Authorisation, as by virtue of Notification No. 36/2024-Cus., dated 23.07.2024, customs duty on Copper Ores and Concentrates falling under ITC HS 26030000 was reduced to Nil with effect from 24.07.2024.

4.4. Subsequently, the exporter requested conversion of the Shipping Bills to the Duty Drawback Scheme vide letter dated 12.08.2025 (received on 20.08.2025) under Section 149 of the Customs Act, 1962.

4.5. The exporter requested for consideration for condonation of delay in filing the application for conversion of 48 Shipping Bills from Advance Authorization to Drawback Shipping Bills under Section 149 of the Customs Act, 1962 and also furnished an undertaking to pay amendment fees of Rs. 1,000/- per Shipping Bill, amounting to Rs. 48,000/-.

4.6. Advance License 3411004653 dated 29.02.2024 is registered at Customs House Dahej. Further, Customs House Dahej confirmed that no imports were made against Advance Authorisation No. 3411004653 dated 29.02.2024 and forwarded a copy of item-wise ledger of Advance License 3411004653 dated 29.02.2024 showing the full balance quantity of 25,000 DMT of Copper Concentrates available for import.

4.7. Hazira Port has confirmed that no imports have been made against Advance Authorisation No. 3411004653 dated 29.02.2024. Hazira Port also forwarded a system-generated screenshot indicating that the entire balance quantity of 25,000 DMT of Copper Concentrates remains available for import. Further, Hazira Port reported that the exporter has also complied with the conditions prescribed under Regulation 4 of the Shipping Bill (Post Export Conversion in Relation to Instrument Based Scheme) Regulations, 2022, as well as the Export Entry (Post Export Conversion in Relation to Instrument Based Scheme) Regulations, 2025. Accordingly, the request for post-export conversion has been found to be in order, and, in terms of the proviso to paragraph 3 of Notification No. 21/2025-Customs dated 03.04.2025, the Principal Commissioner may consider condonation of the delay.

PERSONAL HEARING AND SUBMISSION OF THE EXPORTER:

5. The exporter, vide letter File No. GEN/TECH/Misc/2462/2025-TECH dated 01.12.2025, was granted an opportunity for a personal hearing, which was scheduled on 11.12.2025 and conducted in virtual mode. The exporter was represented by Shri Ghanshyam Chudasama, Head – Indirect Tax (Copper Business), who attended the hearing on the scheduled date. During the personal hearing, the authorized representative stated that they obtained Advance Authorisation and exported goods under Advance Authorisation in the month of March-2024 but not imported any consignments against the Advance Authorisation. Due to change in rate of Customs duty in interim budget-2024, customs duty on raw material became Nil, therefore they applied for conversion of shipping bills from Advance Authorisation to Drawback in the month of August-2025 and further stated that additional submissions would be filed within two days. Subsequently, the exporter, vide letter reference no. HIL/BC/GCRM/SB/Hazira-PH/48/2025-26 dated 11.12.2025 received through email dated 15.12.2025, submitted the additional submissions in support of their request under which they informed that they had made export of Copper Cathodes in the month of March-2024 under Advance Authorisation scheme which consists of 48 Shipping Bills. This Advance Authorisation No. 3411004653 was valid upto 28.02.2025 and the licensee has an option to request RLA to extend the validity for further one year i.e. upto 28.02.2026. Further, they submitted that during interim Budget, vide notification No.36/2024-Customs Dated 23.07.2024 Customs duty on Copper Ores and concentrates falling under ITC HS 260330000 has become Nil from 24th of the July 2024. Thereafter, they had waited for budget 25 and Q1 FY'26 for any levy of Customs Duty on Copper Concentrate, since benefit under Advance Authorisation is lucrative than Drawback benefit to stay competitive in international market, they always prefer Advance Authorisation. Notification No. 21/2025-Customs (N.T.) dated 03.04.2025 was issued for post export conversion of Shipping Bills in relation to instrument based scheme. They had taken a call that Advance Authorisation was more beneficial to them and Drawback was not lucrative. Again, they had waited for some time for

change in rate of duty in Budget. Thereafter, they had consulted with corporate tax team and tax consultant regarding conversion of Shipping Bills from Advance Authorisation to Drawback (DBK) and finally, application submitted at Hazira Port dated 12.08.2025. Further, they requested to condone the delay and convert the Shipping Bills from Advance Authorisation to Duty Drawback and allow them the benefit of Drawback and RoDTEP which is legitimately allowed to them to stay competitive in international market.

DISCUSSION AND FINDINGS:

6. I have carefully gone through the facts of the case, the record of the personal hearing held on 11.12.2025, and the written submission filed by the exporter on 15.12.2025. I find that since the exports were effected during March 2024, the provisions of Export Entry (Post export conversion in relation to instrument based scheme) Regulations, 2025 notified vide Notification No. 21/2025-Cus., dated 03.04.2025 are not applicable to the present case, as the said notification came into force only on 03.04.2025. Hence, the applicable legal provisions in the present case are those contained in the Shipping Bill (Post Export Conversion in Relation to Instrument Based Scheme) Regulations, 2022, issued vide Notification No. 11/2022-Customs (N.T.), dated 22.02.2022. Therefore, I find that the following issues arise for consideration:

- (i) Whether conversion of the 48 Shipping Bills from Advance Authorisation Scheme to Duty Drawback Scheme is permissible under Section 149 of the Customs Act, 1962 read with Notification No. 11/2022-Customs (N.T.), dated 22.02.2022.
- (ii) Whether the delay in filing the conversion application could be condoned in terms of the proviso to sub-regulation 3(1) of Notification No. 11/2022-Customs (N.T.), dated 22.02.2022.

7. I find that with reference to conversion of Shipping Bill under the provisions of Section 149 of the Customs Act, 1962, Circular No. 36/2010-Cus dated 23.09.2010 is issued by CBEC (now, CBIC) regarding conversion of free Shipping Bills to export promotion scheme Shipping Bills and conversion of shipping bills from one scheme to another. Section 149 is reiterated as under:

Section 149. Amendment of documents. -

Save as otherwise provided in sections 30 and 41, the proper officer may, in his discretion, authorise any document, after it has been presented in the custom house to be amended [in such form and manner, within such time, subject to such restrictions and conditions, as may be prescribed]:

Provided that no amendment of a bill of entry or a shipping bill or bill of export shall be so authorised to be amended after the imported goods have been cleared for home consumption or deposited in a warehouse, or the export goods have been exported, except on the basis of documentary evidence which was

in existence at the time the goods were cleared, deposited or exported, as the case may be.

[**Provided** further that such authorisation or amendment may also be done electronically through the customs automated system on the basis of risk evaluation through appropriate selection criteria:

Provided also that such amendments, as may be specified by the Board, may be done by the importer or exporter on the common portal.]

Relevant Para 3,4,5 of the circular are as under:

“3. The issue has been re-examined in light of the above. **It is clarified that Commissioner of Customs may allow conversion of shipping bills from schemes involving more rigorous examination to schemes involving less rigorous examination (for example, from EOU /DFIA scheme to Drawback/DEPB scheme) or within the schemes involving same level of examination (for example from Drawback scheme to DEPB scheme or vice versa) irrespective of whether the benefit of an export promotion scheme claimed by the exporter was denied to him by DGFT/DOC or Customs due to any dispute or not.** The conversion may be permitted in accordance with the provisions of section 149 of the Customs Act, 1962 on a case to case basis on merits provided the Commissioner of Customs is satisfied, on the basis of **documentary evidence** which was in existence at the time the goods were exported, that the goods were eligible for the export promotion scheme to which conversion has been requested. Conversion of shipping bills shall also be subject to conditions as may be specified by the DGFT/MOC. The conversion may be allowed subject to the following further conditions:

a) The request for conversion is made by the exporter within three months from the date of the Let Export Order (LEO).

b) **On the basis of available export documents etc., the fact of use of inputs is satisfactorily proved in the resultant export product.**

c) The examination report and other endorsements made on the shipping bill/export documents prove the fact of export and the export product is clearly covered under relevant SION and or DEPB/Drawback Schedule as the case may be.

d) **On the basis of S/Bill/export documents, the exporter has fulfilled all conditions of the export promotion scheme to which he is seeking conversion.**

e) **The exporter has not availed benefit of the export promotion scheme under which the goods were exported and no fraud/ mis-declaration /manipulation has been noticed or investigation initiated against him in respect of such exports.**

4. Free shipping bills (shipping bills not filed under any export promotion scheme) are subject to 'nil' examination norms. Conversion of free shipping bills into EP scheme shipping bills (Advance License, DFIA, DEPB, reward schemes etc. should not be allowed. **However, the Commissioner may allow All Industry Rate of duty drawback on goods exported under free shipping bill, without conversion of such free shipping bill to Drawback Scheme shipping bill, in terms of the proviso to rule 12(1) (a) of the Customs, Central Excise and Service Tax Drawback Rules, 1995.**

5. Due care may be taken while allowing conversion to ensure that the **exporter does not take benefit of both the schemes i.e. the scheme to which conversion is sought and the scheme from which conversion is sought.** Whenever conversion of a shipping bill is allowed, the same should be informed

to DGFT so that they may also ensure that the exporter does not take benefit of both the schemes.”

8. I find that Notification No. 11/2022-Customs (N.T.) dated 22.02.2022 is issued by CBIC regarding Shipping Bill (Post export conversion in relation to instrument based scheme) Regulations, 2022. Manner and time limit for applying for post export conversion of Shipping Bill in certain cases and Conditions and restrictions for conversion of Shipping Bill stipulated under para 3 and para no. 4 of the said Notification respectively are as under:

3. Manner and time limit for applying for post export conversion of Shipping Bill in certain cases. -

(1) The application for conversion shall be filed in writing **within a period of one year from the date of order for clearance of goods under sub-section (1) of section 51 or section 69 of the Act**, as the case may be:

Provided that the jurisdictional Commissioner of Customs, having regard to the circumstance under which the exporter was prevented from applying within the said period of one year, may consider and decide, for reasons to be recorded in writing, to extend the aforesaid period of one year by a further period of six months:

Provided further that the jurisdictional Chief Commissioner of Customs, having regard to the circumstances under which the exporter was prevented from applying within the said period of one year and six months, may consider and decide, for reasons to be recorded in writing, to extend the said period of one year and six months by a further period of six months.

(2) For the purpose of computing the period of one year under sub-regulation (1), the period, during which stay was granted by an order of a court or tribunal, shall be excluded.

(3) The jurisdictional Commissioner of Customs, may, in his discretion, authorize the conversion of shipping bill, subject to the following, namely: -

(a) on the basis of documentary evidence, which was in existence at the time the goods were exported;

(b) subject to conditions and restrictions provided in regulation 4;

(c) on payment of a fee in accordance with Levy of fees (Customs Documents) Regulations, 1970.

(4) Subject to the provision of sub-regulation (1), the jurisdictional Commissioner of Customs shall, where it is possible so to do, decide every application for conversion within a period of thirty days from the date on which it is filed.

4. Conditions and restrictions for conversion of Shipping Bill. - (1) The conversion of shipping bill and bill of export shall be subject to the following conditions and restrictions, namely:-

(a) fulfilment of all conditions of the instrument based scheme to which conversion is being sought;

(b) the exporter has not availed benefit of the instrument based scheme from which conversion is being sought;

(c) no condition, specified in any regulation or notification, relating to presentation of shipping bill or bill of export in the Customs Automated System, has not been complied with;

(d) no contravention has been noticed or investigation initiated against the exporter under the Act or any other law, for the time being in force, in respect of such exports;

(e) the shipping bill or bill of export of which the conversion is sought is one that had been filed in relation to instrument based scheme.

9.1 I further find that “instrument based scheme” means a scheme involving utilization of instrument referred to in explanation 1 to sub-section (1) of section 28AAA of the Act. Explanation 1 to sub-section (1) of section 28AAA of the Act is reiterated as under;

Section 28AAA. Recovery of duties in certain cases –

(1) Where an instrument issued to a person has been obtained by him by means of-

- (a) collusion; or
- (b) wilful misstatement; or
- (c) suppression of facts,

for the purposes of this Act or the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992), or 2 [any other law, or any scheme of the Central Government, for the time being in force, by such person] or his agent or employee and such instrument is utilised under the provisions of this Act or the rules 3 [or regulations] made or notifications issued thereunder, by a person other than the person to whom the instrument was issued, the duty relatable to such utilisation of instrument shall be deemed never to have been exempted or debited and such duty shall be recovered from the person to whom the said instrument was issued:

Provided that the action relating to recovery of duty under this section against the person to whom the instrument was issued shall be without prejudice to an action against the importer under section 28.

Explanation 1 - For the purposes of this sub-section, "instrument" means any scrip or authorisation or licence or certificate or such other document, by whatever name called, issued under the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992), [or duty credit issued under section 51B, with respect to] a reward or incentive scheme or **duty exemption scheme** or **duty remission scheme** or such other scheme bestowing financial or fiscal benefits, which may be utilised under the provisions of this Act or the rules made or notifications issued thereunder.

.....
.....

9.2. I have gone through the provisions of Foreign Trade Policy Wherein Schemes enable duty free import of inputs for export production, including replenishment of inputs, duty exemption or duty remission, which read as under:

4.01 Schemes

(a) Duty Exemption Schemes.

The Duty Exemption schemes consist of the following:

- **Advance Authorisation (AA)** (which will include EOU for Annual Requirement).
- **Duty Free Import Authorisation (DFIA).**

(b) Duty Remission Scheme.

Duty Drawback (DBK) Scheme, administered by Department of Revenue.

10. From the above legal provisions, I find that the request of the exporter in the present case is for conversion of impugned Shipping Bill from one instrument based scheme i.e. Advance Authorisation Scheme to another instrument based scheme i.e.

Drawback Scheme. An exporter regarding conversion of Shipping Bill from one instrument based scheme to another instrument based scheme have to pass test of all the conditions stipulated in this regard by CBEC (now, CBIC) in the Circular No. 36/2010-Cus dated 23.09.2010 and in Shipping Bill (Post export conversion in relation to instrument based scheme) Regulations, 2022 issued vide Notification No. 11/2022-Customs (N.T.) dated 22.02.2022 (hereinafter “the Regulations”), in addition to falling the case under the scope of Section 149 of the Customs Act, 1962 (hereinafter “the Act”).

11.1 I find that Section 149 of the Act provides for amendment of a shipping bill that a shipping bill shall be so authorised to be amended after the export goods have been exported except on the basis of documentary evidence which was in existence at the time the goods were exported.

11.2. I find that the goods were exported vide the impugned shipping bills under Advance Authorisation No. 3411004653 and contain scheme details at specific places. The exporter had filed the impugned shipping bills under Advance Authorisation. I find that under Item details and under License details, Exporter had mentioned Advance Authorisation as Scheme name. I further find from the perusal of invoices that the goods were exported under said Advance Authorisation. Thus, I find that it is not disputed that exporter had exported goods under Advance Authorisation in respect of the impugned shipping bills.

12.1. I further find that the exporter has requested for conversion of impugned shipping bill from a more rigorous examination scheme to a less rigorous examination scheme. I find that Para—3 of Circular No. 36/2010-Cus dated 23.09.2010 prescribes that -

Conversion of shipping bills from schemes involving more rigorous examination to schemes involving less rigorous examination (for example, from Advance Authorisation/DFIA scheme to Drawback/DEPB scheme) or within the schemes involving same level of examination (for example from Drawback scheme to DEPB scheme or vice versa).....

12.2. I therefore find that conversion from a scheme involving more rigorous examination to a scheme involving less rigorous examination, or to a scheme involving the same level of examination, is permissible in terms of the provisions laid down in the above-referred Board’s Circular. In the present case, the exporter has sought conversion of the Shipping Bills from the Advance Authorisation Scheme, which entails a more rigorous level of examination, to the Duty Drawback Scheme, which involves comparatively less rigorous examination. The said request is thus in conformity with the provisions prescribed in the aforesaid Board’s Circular. Accordingly, I hold that, in the instant case, the exporter satisfies the

condition of conversion from a scheme involving more rigorous examination to a scheme involving less rigorous examination.

13. I further find from submissions of the exporter and the verification report received from Customs, Hazira Port that the exporter requested for conversion of shipping bills from Advance Authorisation Scheme to Drawback Scheme and if the goods were not exported under Advance Authorisation, then, the exported goods are eligible for Drawback as per applicable rates. Thus, the exporter qualifies the condition 3(d) of the said Circular and the condition 4(a) of the Regulations, 2022.

14. I further find from the submissions of the exporter and the verification report received from Customs, Hazira Port, that the exporter has not imported any duty-free goods under Advance Authorisation No. 3411004653. On perusal of the said Advance Authorisation, it is observed that the validity for duty-free import of goods expired on 28.02.2025, with an option available to the exporter to seek extension of the same up to 28.02.2026. From the export documents on record and the details furnished by the exporter, it stands established that no duty-free inputs imported against the above Advance Authorisation to use in manufacturing of the resultant exported goods. However, in support of the present request for conversion of the Shipping Bills, the exporter has not produced the de-logging letter or any other documentary evidence issued by the DGFT to substantiate closure or non-utilisation of the said Advance Authorisation. Hence, I find that the exporter qualifies the condition 3(e) of the Circular No. 36/2010-Cus dated 23.09.2010 and 4(b) of the Regulations, 2022., subject to de-logging letter or any other documents from respective Regional Authority, DGFT to the effect of cancellation of the said Advance License.

15.1. I find that the exporter has fulfilled the conditions stipulated under Regulation 4(c) and 4(d) the regulation 2022 and condition 3(e) of the Circular No. 36/2010-Cus dated 23.09.2010 in as much as the jurisdictional Assistant Commissioner's submission indicate that the request of the exporter was found in order in terms of Export Entry (Post-Export Conversion in relation to Instrument-Based Scheme) Regulations, 2025 (akin to the regulation, 2022) and Shipping Bill (Post Export Conversion in Relation to Instrument Based Scheme) Regulations, 2022.

15.2. I further find that the exporter had not imported any duty-free goods against the said Advance Authorisation; therefore, the requirement of establishing the use of inputs in the resultant export product, as prescribed under condition 3(b) of Circular No. 36/2010-Cus dated 23.09.2010, does not arise.

15.3. I further find that the goods were exported under the Advance Authorisation through the aforesaid 48 Shipping Bills, wherein the exporter has clearly declared

the relevant SION, i.e. 1503 as mentioned in the said Advance Authorisation, in Part IV – Export Scheme Details. I also find the product in Drawback schedule. Hence, I find that the exporter satisfies the condition stipulated under paragraph 3(c) of Circular No. 36/2010-Cus dated 23.09.2010 i.e. *The examination report and other endorsements made on the shipping bill/export documents prove the fact of export and the export product is clearly covered under relevant SION and or DEPB/ Drawback Schedule as the case may be.*

15.4. I further find that the Assistant Commissioner, Hazira Export reported that the exporter has complied with the all conditions prescribed under Regulation 4 of the Shipping Bill (Post Export Conversion in Relation to Instrument Based Scheme) Regulations, 2022.

16.1 I find that the export under the above Shipping Bill was effected between the period from 11.03.2024 to 26.03.2024 and the exporter has filed application for conversion of the above Shipping Bill from Advance Authorisation Scheme to Drawback Scheme before the department on 20.08.2025 i.e., after more than one year from the date of clearance of the export goods, which is beyond the permissible time limit as stipulated in Para No. 3(a) of the Circular No. 36/2010-Cus dated 23.09.2010 i.e. *“The request for conversion is made by the exporter within three months from the date of the Let Export Order (LEO)”*. and in Para No. 3(1) of the Shipping Bill (Post export conversion in relation to instrument based scheme) Regulations, 2022 issued vide Notification No. 11/2022-Customs (N.T.) dated 22.02.2022 i.e. *“The application for conversion shall be filed in writing within a period of one year from the date of order for clearance of goods under sub-section (1) of section 51 or section 69 of the Act, as the case may be.....”*.

16.2. I find that the exporter requested for condonation of delay in filing the request for such conversion in terms of the proviso to sub-regulation 3(1) of the Export Entry (Post export conversion in relation to instrument based scheme) Regulations, 2025., issued vide Notification No. 21/2025-Customs (N.T.) dated 03.04.2025. The same provision for extension the prescribed period of one year by a further period of six months are also mentioned in proviso to sub-regulation 3(1) of the applicable Shipping Bill (Post export conversion in relation to instrument based scheme) Regulations, 2022 in the instant case. The said proviso is reiterated as under:

*“Provided that the jurisdictional Commissioner of Customs, having regard to **the circumstance under which the exporter was prevented from applying within the said period of one year**, may consider and decide, for reasons to be recorded in writing, to extend the aforesaid period of one year by a further period of six months. “*

16.3. I find that the exporter filed application for conversion of aforesaid shipping bills from Advance Authorisation Scheme to Drawback Scheme with the Department after more than one year from the date of clearance of the export goods as prescribed

in the Regulations. However, the delay falls in extended period as prescribed vide proviso to sub-regulation 3(1) of the Regulations.

16.4. I find that in terms of sub-regulation 3(1) of the Regulations, the request of the exporter for extension of the prescribed period of one year by a further period of six months may be considered and decided having regard to circumstance under which the exporter was prevented from applying the application within the said period of one year. In the case on hand, I find that as per prevailing practice where specific conditions are not annexed with Advance Authorisation i.e. pre import, the exporter tends to do the export first and thereafter import the raw materials in proportion to export quantity to avoid any non-compliance in dischargement of export obligation. I find that the exporter could not utilize the said Advance Authorisation due to reasons beyond their control, by virtue of Notification No. 36/2024-Customs dated 23.07.2024 Customs duty on Copper Ores and Concentrates falling under ITC HS 26030000 has become Nil from 24th of the July 2024. Further, I find that the exporter made export of Copper Cathodes in the month of March-2024 vide 48 Shipping Bills under Advance Authorisation scheme which was valid upto 28.02.2025 and licensee has an option to request RLA to extend the validity for further one year i.e. upto 28.02.2026. I find that Notification No.36/2024-Customs Dated 23.07.2024 Customs duty on Copper Ores and concentrates falling under ITC HS 260330000 has become Nil from 24th of the July 2024. Thereafter, the exporter had waited for budget 25 and Q1 FY'26 for any levy of Customs Duty on Copper Concentrate, since benefit under Advance Authorisation is lucrative than Drawback benefit to stay competitive in international market, they always prefer Advance Authorisation. Notification No. 21/2025-Customs (N.T.) dated 03.04.2025 was issued for post export conversion of Shipping Bills in relation to instrument based scheme. They had taken a call that Advance Authorisation was more beneficial to them and Drawback was not lucrative. Again, they had waited for some time for change in rate of duty in Budget. Thereafter, they had consulted with corporate tax team and tax consultant regarding conversion of Shipping Bills from Advance Authorisation to Drawback (DBK) and finally, application submitted at Hazira Port dated 12.08.2025. Further, they requested to condone the delay and convert the Shipping Bills from Advance Authorisation Scheme to Duty Drawback Scheme.

16.5. I have carefully examined the facts of the case, the submissions made by the exporter, and the records placed before me. It is observed that the exporter had effected exports of Copper Cathodes during March 2024 under the Advance Authorisation Scheme against Authorisation License No. 3411004653, which was valid up to 28.02.2025 and was further extendable up to 28.02.2026. It is also evident that, as per the prevailing trade practice, the exporter opted to first complete exports and thereafter plan the import of raw materials in proportion to the export quantity, especially in the absence of specific pre-import conditions attached to the said Advance Authorisation. However, due to Notification No. 36/2024-Customs

dated 23.07.2024, whereby Customs duty on Copper Ores and Concentrates falling under ITC (HS) 26030000 was reduced to Nil w.e.f. 24.07.2024, the very basis for availing the benefit under the Advance Authorisation Scheme became commercially non-viable. This change in the duty structure was a policy decision beyond the control of the exporter and materially altered the incentive framework available to them. Further, the exporter has satisfactorily explained that they awaited subsequent Budget announcements and clarifications, including Notification No. 21/2025-Customs (N.T.) dated 03.04.2025 permitting post-export conversion of Shipping Bills, and also sought professional advice before taking an informed decision regarding conversion from Advance Authorisation to Duty Drawback Scheme. The delay in filing the application for conversion of Shipping Bills is thus attributable to bona fide commercial considerations, regulatory changes, and the need for due diligence, rather than any deliberate inaction or negligence on the part of the exporter. I therefore, find that the exporter was genuinely prevented by circumstances beyond their control from filing the application for conversion within the prescribed period, and the explanation furnished constitutes sufficient cause warranting condonation of delay in terms of the applicable legal provisions.

17.1. I find that the Assistant Commissioner (Export), Customs, Hazira Port, reported that the exporter has complied with the all conditions prescribed under Regulation 4 of the Shipping Bill (Post Export Conversion in Relation to Instrument Based Scheme) Regulations, 2022 and in their verification report, has recommended condonation of delay in filing the application for conversion of the impugned Shipping Bills, as discussed in paras 3.1, 3.2 and 3.3 above. During the personal hearing, the exporter sought the relief prayed for and explained the circumstances which prevented filing of the application within the prescribed period of one year. It is also verified by Customs, Hazira Port, through the EDI system that no duty-free imports were made under the Advance Authorisation and no benefit was availed under the scheme from which conversion has been sought. The request is revenue-neutral and does not result in any undue benefit or loss of revenue. It is further observed that the exporter had planned to import goods under the Advance License after effecting exports against the said Advance Authorization; however, due to a subsequent notification reducing the duty on the proposed goods of import to Nil, the Advance Authorisation could not be utilised. These circumstances were clearly beyond the control of the exporter.

17.2. I further find that the delay in filing the application is attributable to bona fide commercial considerations and regulatory changes, and not to any deliberate inaction or negligence on the part of the exporter. Accordingly, I hold that the exporter was prevented by circumstances beyond their control from filing the application within the prescribed period and that the explanation furnished constitutes sufficient cause for condonation of delay. I therefore find that the exporter has made out a convincing case, thereby establishing that the impugned


Shipping Bills are eligible for conversion to the Duty Drawback Scheme in the instant case. Further, the Board's Circular also permits conversion from a scheme involving more rigorous examination to a scheme involving less rigorous examination, or to a scheme involving the same level of examination.

17.3. Accordingly, in view of the discussions in the foregoing paragraphs, I hold that the impugned 48 Shipping Bills satisfy the statutory requirements for conversion of shipping bills from the Advance Authorisation Scheme to the Duty Drawback Scheme subject to de-logging letter or any other documents from respective Regional Authority, DGFT to the effect of cancellation of the said Advance Authorisation.

18. In view of the discussion made in the fore-going para, I pass the following order:-

ORDER

The delay in filing the application for conversion of the above 48 Shipping Bills from the Advance Authorisation Scheme to the Duty Drawback Scheme is hereby condoned. I further hold that the request of the exporter for conversion of the said Shipping Bills is admissible under the provisions of Section 149 of the Customs Act, 1962, read with Circular No. 36/2010-Cus dated 23.09.2010 and Shipping Bill (Post Export Conversion in Relation to Instrument Based Scheme) Regulations, 2022. Accordingly, the application filed by the exporter for conversion of 48 Shipping Bills, as detailed in Table-A to this order, from Advance Authorisation Scheme to Duty Drawback Scheme is hereby allowed subject to de-logging letter or any other documents from respective Regional Authority, DGFT to the effect of cancellation of the said Advance Authorisation and on payment of a fee in accordance with Levy of fees (Customs Documents) Regulations, 1970.


13.01.2026
(Shiv Kumar Sharma)
Principal Commissioner
Customs, Ahmedabad

F.No. GEN/TECH/Misc/2462/2025-TECH

Dt. 13.01.2026

DIN:- 20260164WY000000FAD8

By SPEED POST/Hand Delivery

To,
M/s. Hindalco Industries Limited (Unit: Birla Copper),
(IEC No. 0388147237),
P.O. Lakhigram, Village Dahej, Taluka Vagra, District Bharuch-392130.

Copy to: -

1. The Chief Commissioner of Customs, Gujarat Zone, Ahmedabad.
2. The Joint Director General of Foreign Trade, Vadodara.
3. The Deputy/Assistant Commissioner of Customs, Hazira Port (Export).
4. The Superintendent (System), Customs, Commissionerate, Ahmedabad, for uploading on the website.
5. Guard File.