



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 – 20251064WS000000F87E

क	फ़ाइल संख्या FILE NO.	S/49-228/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-301-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
ड	दिनांक DATE	28.10.2025
ड	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	166/AR/ADC/ICD-Sachin/SRT /2024-25 dt. 05.09.2024 passed by the Additional Commissioner, Customs, Surat.
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	28.10.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s Jwal Impex, D-204, Viththal Nagar Society, Nr. Hirabaugh Circle, Varachha Main Road, Surat-395 006 suri6law@yahoo.in suri6law@gmail.com



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 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.
(ख)	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.
(ग)	सम्बद्ध दस्तावेजों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. 200/- (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 रूपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु. 200/- और यदि एक लाख से अधिक हो तो फीस के रूप में रु. 1000/-
(d)	The duplicate copy of the T.R.6 challan evidencing payment of Rs.200/- (Rupees two Hundred only) or Rs.1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-.
4.	मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.- 3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं



	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :	
	सीमाशुल्क, केंद्रीय 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 ;	
	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)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के 10% अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के 10% अदा करने पर, जहां केवल दंड विवाद में 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 Jwal Impex, D-204, Viththal Nagar Society, Nr. Hirabaugh Circle, Varachha Main Road, Surat-395 006 (hereinafter referred to as "the Appellant") have filed the present appeal against the Order-In-Original No.: 166/AR/ADC/ICD-Sachin/SRT /2024-25 dt. 05.09.2024 (herein after referred to as "the impugned order") passed by 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., 02 sets of Computerized Embroidery Machine under EPCG Licence No. : 5230016624, dated 01.05.2015 by saving Customs Duty amount of Rs. 11,07,934/- (Actual Duty Utilization of Rs. 11,68,616/-) under the cover of the below mentioned Bills of Entry at Zero duty by availing the benefit of exemption available under Notification No. 16/2015 - Cus, dated 01.04.2015. The details of import are as per Table – I below:

TABLE - I

Sr. No.	Bill of Entry No. & date	Number of machinery imported and cleared	Ass. Value (In Rs.)	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.	9155696, dated 07.05.2015	01	23,51,622/-	11,07,934/-	5,50,644/-	1,82,000/-
2.	3688329, dated 23.12.2015	01	26,39,156/-		6,17,972/-	
TOTAL		02 sets	49,90,778/-	11,07,934/-	11,68,616/-	

Against the said EPCG Licence No. 5230016624, dated 01.05.2015, the Appellant had executed a Bond dated 06.05.2015 before the Deputy/Assistant Commissioner of Customs, ICD – Sachin, Surat for an amount of Rs. 32,00,000/- backed by a Bank Guarantee No.: 0306BG002202015 , dated 02.05.2015 for Rs. 90,000/- and 0650BG004562015 , dated 18.12.2015 for Rs. 92,000/- issued by the South Indian Bank, Ring Road Branch, Surat for EPCG Licence No. 5230016624, dated 01.05.2015. The Appellant had undertaken to fulfill the export obligation as specified in the said Notification and the said license.

2.2 The said machinery, i.e., 02 sets of Computerized Embroidery Machine imported under the aforesaid EPCG Licence was to be installed at M/s Jwal Impex, B-19, Ground Floor, Mohan Nagar, Nr. Barod Pristage, Varachha Road, Surat- 395 006. The appellant in this regard produced installation certificate dated 12.02.2016 issued by the Chartered Engineer Shri Narottam L Vora, Kolkata for only 1 (one) capital goods imported under the said EPCG license but failed to produce required Installation certificate for installation of the Capital Goods imported by availing the benefit of the said

license vide Bill of Entry No.: 9155696 dated 07.05.2016 certifying the receipts of the goods imported and its installation.

2.3 As per the conditions of Notification No. 16/2015 - Cus, dated 01.04.2015, the Appellant was required to fulfill the export obligation on FOB basis equivalent to Six times the duty saved on the goods imported as specified on the Licence and Authorization. In the instant case, the EPCG Licence was issued to the Appellant on 01.05.2015 and accordingly, they were required to fulfill export obligation by 30.04.2021, i.e., within a period of Six years from the date of issuance of Licence or Authorization and required to submit the Export Obligation Discharge Certificate (EODC) issued by the Regional DGFT Authority before the jurisdictional Customs authorities.

2.4 A letter under F. No.: ICD-Sachin/Misc./01/2022-23, dated 13.01.2023 was issued to the Appellant requesting them to furnish the copy of EODC or any extension issued by the Regional Authority, DGFT, Surat for fulfilment of export obligation. However, no response was received from the Appellant. From the above, it appeared that the Appellant had failed to fulfill the export obligation as specified in the license and did not comply with the mandatory condition of the Notification No. 16/2015 – Cus, dated 01.04.2015, the condition of EPCG License and also the condition of the Bond executed and furnished by them.

2.5 In view of the above, it appeared that the Appellant had failed to fulfill the conditions laid down under Notification No.: 16/2015 – Cus, dated 01.04.2015 inasmuch as it appeared that the said Appellant had failed to fulfill the export obligation against the goods imported by using the aforesaid EPCG License No. 5230016624, dated 01.05.2015. The Appellant neither produced the EODC issued by the DGFT, Surat nor could produce any documents showing extension granted to them for fulfilment of export obligation. Therefore, the Appellant was liable to pay Customs Duty not paid (i.e. saved) by them amounting to Rs. 11,68,616/- at the time of import / clearance along with interest at the applicable rate, 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.: 0306BG002202015 , dated 02.05.2015 for Rs. 90,000/- and 0650BG004562015 ; dated 18.12.2015 for Rs. 92,000/- issued by the South Indian Bank, Ring Road Branch, Surat furnished by them against the aforesaid EPCG Licence No. 5230016624, dated 01.05.2015 appeared liable to be encashed and deposited in the Government Exchequer.

2.6 Subsequently, a Show Cause Notice under F. No.: VIII/6-180/ICD-Sachin/2015-16 dt. 29.04.2024 was issued to the Appellant, proposing as to why:

- i. The benefit of zero duty for EPCG Scheme under Notification No. 16/2015-Cus., dated 01.04.2015 on the imported Computerized Embroidery Machine imported in the name of the Appellant should not be denied;

- ii. Customs Duty amounting to Rs. 11,68,616/- 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. 16/2015-Cus., dated 01.04.2015, 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.: 0306BG002202015 , dated 02.05.2015 for Rs. 90,000/- and 0650BG004562015 , dated 18.12.2015 for Rs. 92,000/- issued by the South Indian Bank, Ring Road Branch, Surat should not be appropriated and adjusted 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. 16/2015 - Cus, dated 01.04.2015 as amended from time to time;
- iv. Penalty should not be imposed under Section 112 (a) and Section 117 of the Customs Act, 1962 for the acts of omission and commission mentioned above;
- v. Bond executed by them at the time of import should not be enforced in terms of Section 143 (3) of the Customs Act, 1962 and the Bank Guarantee thereof should not be encashed for recover of the Customs Duty as mentioned above and interest thereupon;

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



- i. He disallowed the benefit of zero duty for EPCG Scheme under Notification No. 16/2015 - Cus., dated 01.04.2015 on Machines under reference imported in the name of the Appellant;
- ii. He confirmed the demand of Customs Duty amounting to Rs. 11,68,616/- being the duty foregone at the time of import of Capital Goods under EPCG Licence in terms of Notification No. 16/2015 - Cus., dated 01.04.2015 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. 1,82,000/- by encashment of the Bank Guarantee No.: 0306BG002202015 , dated 02.05.2015 for Rs. 90,000/- and 0650BG004562015 , dated 18.12.2015 for Rs. 92,000/- issued by the South Indian Bank, Ring Road Branch, Surat submitted by the Appellant. He ordered the same to be adjusted against the duty liability confirmed at (ii) above;
- iv. He confiscated the subject imported Capital goods imported by the Appellant 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. 16/2015 - Cus., dated 01.04.2015. However, he gave an option to redeem the said goods on payment of redemption fine of Rs. 24,95,389/- under Section 125 (i) of the Customs Act, 1962;

- v. He imposed penalty of Rs.1,16,861/- upon the Appellant under Section 112 (a) of the Customs Act, 1962;
- vi. He imposed penalty of Rs.1,00,000/- upon the Appellant under Section 117 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 filed Misc. Application for condonation of delay and appeal memorandum in CA-1 wherein , the appellant inter-alia, raised various contentions and filed detailed submissions as given below in support of their claims:

- That the delay of 7 days in filing appeal occurred as the applicant, a lady out of Surat City due to Diwali vacation and the same may please be condoned in the interest of justice.
- That the show cause notice dt. 29.04.2024 should not have been issued at all as it is contrary to the CBEC circular dated 02.05.2017 as this directs the field formations to issue only letter in such cases and directed not to issue SCNs at all.
- That the impugned order dt. 05.09.2024 is ab initio invalid and illegal as the Additional Commissioner of Customs has neither physically or digitally signed the same.

That they have already applied for the EODC/ bond waiver through letter dt. 12.03.2024 to the Jt. DGFT, Surat due to which the impugned order is required to be quashed and set aside with the consequential relief of refund of the Bank guarantee amount with interest.

3.1 Meanwhile, the appellant through its advocate firm M/s SSN Lawyers, Surat through letter dt. 03.10.2025 informed that they have received EODC/ Redemption letter against the EPCG Licence No. 5230016624 from the Jt. DGFT, Surat vide Redemption Letter vide F.No.: 52EEEPC08071AM24 dt. 22.01.2025 (copy attached with the letter).

4. Personal hearing in the matter was held on 15.10.2025 in virtual mode. Shri S. Suriyanarayanan, Advocate, appeared for hearing on behalf of the Appellant. He reiterated the submissions made in the appeal memorandum. He specially submitted that the EODC has been already submitted on vide their letter dt. 03.10.2025.

5. I have carefully gone through the impugned order, the appeal memorandum filed by the Appellant, as well as records of the case. The issues to be decided in the present appeal are whether the impugned order passed by the adjudicating authority disallowing the benefit of concessional rate of duty under Notification No. 16/2015 - Cus., dated 01.04.2015, confirming the demand of duty along with interest, confiscating the Capital goods under Section 111 (o) of the Customs Act, 1962 and imposing penalties



upon the Appellant under Sections 112 (a) (ii) and Section 117 of the Customs Act, 1962, in the facts and circumstances of the case, is legal and proper or otherwise.

5.1 The Appellant has filed the present appeal on 19.11.2024. In the Form C.A.-1, the date of communication of the Order-In-Original dated 05.09.2024 has been shown as 13.09.2024. It is observed that, as per the appellant's submission, the appeal has been filed with a delay of 7 days, which is within the condonable period of 30 days beyond the prescribed 60 days, as provided under Section 128(1) of the Customs Act, 1962. The appellant has filed Misc. application for condonation of delay showing cause of delay due to the Diwali festival.

5.1.1 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.]

5.1.2 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.

5.1.3 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.

5.2 Further, as per C.A. – 1, the Appellant has submitted that the Bank Guarantees in the matter, have been appropriated vide the impugned order, thereby fulfilling the requirement of pre-deposit of filing the appeal as envisaged under the Section 129 E of the Customs Act, 1962. As the appeal has been filed within the stipulated time-limit and complies with the requirement of Section 129E of the Customs Act, 1962, the appeals has been admitted and being taken up for disposal on merits.

6. It is observed that the Appellant had imported Capital Goods machinery, i.e., 02 sets of Computerized Embroidery Machine under EPCG Licence No. 5230016624, dated 01.05.2015 by saving Customs Duty amount of Rs.11,07,934/- (Actual Duty Utilization of Rs. 11,68,616/-) under the cover of the Bill of Entry mentioned above at zero duty by availing the benefit of exemption available under Notification No. 16/2015 -Cus., dated 01.04.2015 as per the details mentioned at Table – I above.

6.1 The Appellant was required to fulfill the export obligation within a period of Six years from the date of issuance of EPCG Licence in terms of the conditions laid down in the Notification and in the EPCG Licence itself. However, the Appellant appeared to have failed to fulfill the conditions laid down under Notification No. 16/2015 - Cus., dated 01.04.2015 inasmuch as they failed to fulfill export obligations against the goods imported by using the aforesaid EPCG Licence No. 5230016624, dated 01.05.2015. The Appellant neither produced the EODC issued by the DGFT, Surat nor could produce any documents showing extension granted to them for fulfilment of export obligation. Therefore, the Appellant appeared liable to pay Customs Duty not paid (i.e. saved) by them amounting to Rs.11,68,616/- at the time of import / clearance along with interest at the applicable rate, 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. Accordingly, a Show Cause Notice was issued, which was adjudicated vide the impugned order, disallowing the benefit of concessional rate of duty under Notification No. 16/2015 - Cus., dated 01.04.2015, confirming the demand of Customs duty along with interest, confiscating the goods under Section 111 (o) of the Customs Act, 1962 and imposing penalties upon the Appellant under Sections 112 (a) (ii) and Section 117 of the Customs Act, 1962.

7. It is observed that the Advocate of the Appellant vide their letter dated 03.10.2025 has submitted a copy of the EODC / REDEMPTION Letter dt. 22.01.2025 against EPCG license issued by the DGFT, Ahmedabad towards the fulfilment of the export obligation in respect of the EPCG License No. 5230016624, dated 01.05.2015. 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. Hence, the veracity of the EODC in respect of the EPCG License No. 5230016624, dated 01.05.2015 needs verification from the original case records.

8. In view of the above, 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 examining the EODC in respect of the EPCG License No. 5230016624, dated 01.05.2015, 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) 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 and allow the appeal filed by the Appellant by way of remand to the adjudicating authority for passing fresh orders 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.

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


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

F. No. S/49-228/CUS/AHD/2024-25

Date: 28.10.2025

By Speed Post .

To,
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