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 रोड़ Ishwar Bhuvan Road
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009
दूरभाष क्रमांक Tel. No. 079-26589281

DIN-20251071MN0000000B0A

क	फ़ाइल संख्या FILE NO.	S/49-06/CUS/KDL/2024-25 S/49-02/CA-2/CUS/KDL/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)	KDL-CUSTM-000-APP-20-21-2025-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	30.10.2025
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER – IN – ORIGINAL NO.	KDL/ADC/DPB/12/2023-24, dated 26.03.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	30.10.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	1. M/s. Shriji Overseas, Shed No. 302,332 & 344, A – 1 Type, Phase – 1, KASEZ, Gandhidham, Kutch - 370230. 2. The Assistant/Deputy Commissioner of Customs (Adjudication), O/o The Principal Commissioner of Customs, New Customs Building, Nr. Balaji Temple, Kandla.

कार्यालय अपर आयुक्त (अपील), सीमा शुल्क अहमदाबाद.

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 exported
(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 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस,दण्ड,जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. 200/-(रूपए दो सौ मात्र)या रु.1000/-(रूपए एक हज़ार मात्र), जैसा भी मामला हो, से सम्ब न्धित 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 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 अपीलिय अधिकरण, 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 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

The present appeals arise from Order-in-Original No. KDL/ADC/DPB/12/2023-24 dated 26.03.2024 (hereinafter referred to as "the Impugned Order"), passed by the Additional Commissioner of Customs, Custom House, Kandla (hereinafter referred to as "the Adjudicating Authority"). M/s. Shriji Overseas, a Special Economic Zone (SEZ) Unit operating from Shed Nos. 302, 332, and 344, A–1 Type, Phase–1, KASEZ, Gandhidham, Kutch–370230, has preferred the present appeal under Section 128 of the Customs Act, 1962, challenging the legality and propriety of the Impugned Order. Additionally, the Department has preferred a separate appeal under Section 129D(4) of the Customs Act, 1962, contesting the quantum of redemption fine and penalty imposed under Sections 125 and 114(AA) respectively, as well as the non-imposition of penalty under Section 112 of the said Act. Both appeals, being directed against the same Order-in-Original, are taken up together for disposal by this common order.

2.1 Facts of the case in brief are that, an investigation was initiated by the Customs Department, Kandla, upon receipt of specific intelligence indicating that certain dutiable and prohibited goods were mis-declared and stored within the premises of M/s. Shriji Overseas (hereinafter referred to as "the Appellant"), The unit held a valid Letter of Approval (LoA) No. 30/2020-21 dated 10.12.2020, issued by the Development Commissioner, KASEZ under Section 15(9) of the SEZ Act, 2005 read with Rule 18 of the SEZ Rules, 2006, for carrying out manufacturing and warehousing services operations. It was found that the Appellant had filed five Bills of Entry between May and July 2022 on behalf of its client, M/s. ICTC-International Trading Consultants Limited, Level 5, Caddie Commercial Tower, IGI Airport, New Delhi (IEC No. AAFCI1768K), for the import and warehousing of plastic goods at the SEZ premises. The declared description of the imported goods in all the Bills of Entry was "S/L of Mix Plastic Sheet, Cuttings, Offcuts, Flakes, Granules in irregular sizes & mix colors floor sweep," classified under Customs Tariff Heading (CTH) 39201019. The details of the imported consignments were as follows:

Description of Goods	BOE No. & Date	Container No.	Gross Weight (Kg)	Assessable Value (Rs.)
S/L of Mix Plastic Sheet, Cuttings, Offcuts/Flakes/Granules in irregular sizes & mix colors floor sweep	1006536 / 12.05.2022	TCNU2673990	22,120	2,44,576
S/L of Mix Plastic Sheet, Cuttings, Offcuts/Flakes/Granules in irregular sizes & mix colors floor sweep	1006328 / 09.05.2022	CMAU7519646	23,880	2,58,479
S/L of Mix Plastic Sheet, Cuttings, Offcuts/Flakes/Granules in irregular sizes & mix colors floor sweep	1009379 / 24.06.2022	CMAU361053	22,720	2,46,076
S/L of Mix Plastic Sheet, Cuttings, Offcuts/Flakes/Granules in irregular sizes & mix colors floor sweep	1009378 / 24.06.2022	CMAU6974901	23,660	2,58,155
S/L of Mix Plastic Sheet, Cuttings, Offcuts/Flakes/Granules in irregular sizes & mix colors floor sweep	1011437 / 28.07.2022	TCNU3158839	23,140	2,55,066
Total	—	—	**1,15,520**	**12,62,352**

2.2 Subsequent to receipt of the intelligence, officers of KASEZ Customs conducted a visit to the Appellant's premises for examination of the goods. Upon inspection, the goods were found to be stored in 151 large white jumbo bags, each weighing approximately 750–800 kilograms. The goods appeared as blue and white plastic flakes, which, upon visual inspection, seemed to be Polyethylene Terephthalate (PET) flakes, differing from the declared description of mixed plastic sheet cuttings and offcuts. To confirm the nature and composition of the goods, representative samples were drawn in the presence of the authorized representative of the Appellant and forwarded to the Central Institute of Petrochemicals Engineering and Technology (CIPET), Ahmedabad, for laboratory analysis under Test Memo No. 3902 dated 23.08.2023.

2.3 The CIPET Test Report No. 3113 dated 12.10.2023 confirmed that the goods were of PET (Polyethylene Terephthalate) material, a single thermoplastic polymer that was free from contamination. However, the report could not determine whether the material was post-consumer (used PET bottles) or post-industrial (unused). Based on these findings and visual examination, the

Customs officers initially concluded that the goods were PET flakes derived from used PET bottles, the import of which is prohibited under Policy Condition No. 2 of Chapter 39 of ITC (HS), 2017, Schedule-I (Import Policy), as amended by DGFT Notification No. 26/2015-20 dated 24.10.2019. Consequently, a Panchanama dated 14.06.2023 was drawn in the presence of two independent witnesses and the authorized representative of the Appellant, and the entire consignment of 1,15,520 kilograms was seized under Section 110 of the Customs Act, 1962.

2.4 The investigation revealed that the Appellant had mis-declared the imported goods in all five Bills of Entry as "Mixed Plastic Sheet Cuttings/Flakes/Granules" under CTH 39201019, whereas the correct classification of PET flakes falls under CTH 39076110, covering "Polyethylene Terephthalate (PET) flakes/chips." The import of such goods is restricted and requires prior authorization from the Directorate General of Foreign Trade (DGFT) and the Ministry of Environment, Forest and Climate Change (MoEF&CC). The mis-declaration was thus considered to have been made intentionally to evade import restrictions under the Foreign Trade Policy and SEZ regulations. The goods were therefore held liable for confiscation under Sections 111(d), 111(f), 111(m), and 111(o) of the Customs Act, 1962.

2.5 A Show Cause Notice dated 05.12.2023 was accordingly issued to both M/s. ICTC-International Trading Consultants Ltd. (Importer) and the Appellant, calling upon them to explain why the classification under CTH 39201019 should not be rejected and reclassified as 39076110, why the goods should not be confiscated under Section 111, and why penalties should not be imposed under Sections 112 and 114AA of the Customs Act, 1962.

2.6 The said Show Cause Notice dated 05.12.2023 was adjudicated by the Adjudicating Authority wherein he,

I. Rejected the classification of 1,15,520 kg of imported goods declared as "S/L of Mix Plastic Sheet, Cuttings Offcuts/ Flakes/Granules in Irregular sizes & mix colors floor sweep" under Customs Tariff Item 39201019 of the Customs Tariff Act,1975 and ordered to re-classify the same as "PET flakes (chip)" under Customs Tariff item39076110;

II. Held the goods valued at Rs. 12,62,352/- liable for confiscation under section 111(m) of the Customs Act,1962. However, in terms of Section 125 of the Customs Act, 1962, gave an option to pay fine of Rs. 1,00,000/- in lieu of confiscation.

III. Refrained from imposing any penalty under Section 112 of the Customs Act, 1962.

IV. Imposed penalty of Rs. 6,00,000/-(Rupees Six lakhs only) upon M/s. Shriji Overseas, SEZ Unit under Section 114AA of the Customs Act, 1962.

V. Imposed penalty of Rs. 60,000/- (Rupees Sixty Thousand only) upon M/s. ICTC-International Trading Consultants Limited (Importer)/ DTA client under Section 114AA of the Customs Act, 1962

3 Being aggrieved with the impugned Order, the Appellant has filed the present appeal and has mainly contended that:

- The order for absolute confiscation of seized goods valued at Rs. 12,62,352/- under Section 111 (m) of the Customs Act, 1962 by rejecting the classification of the imported goods is improper.
- There was no mala fide intent on their part nor the adjudicating authority has attributed any mala fide intent as to the declaration of the import items. Thus the declaration is unintentional and without any motive to mislead the department accordingly.
- They filed the Bills of Entry with the Custom Authorities based on the documents or declarations supplied by the owner of goods. Being a warehousing Unit they don't file any document or declaration on their own.
- The description of goods in the Bills of Entry have been filed based on the Invoice, Bill of lading and other documents provided by the Importer and therefore the imposition of penalty of Rs. 600000/- on them and Rs. 60000/- on the owner of goods is not justifiable.

4. On the other hand, the department has mainly contended that:

- The Adjudicating Authority has passed the impugned order without going into the merits of the case and didn't impose redemption fine and penalties upon the DTA client/importer and the SEZ unit properly which is commensurate to the offense.
- The Adjudicating Authority has refrained from imposing any penalty under Section 112 of the Customs Act, 1962 and the same is not proper.
- The penalty imposed by the Adjudicating Authority on the importer/DTA client to the tune of Rs. 60000/- is negligible in comparison to the value of the goods and also the penalty imposed upon the SEZ unit is low and unjustified.

5. Personal hearing in the matter was held on 18.06.2025. Shri Rajvardhan Jha, Proprietor of M/s Shreeji Overseas appeared for hearing. He re-iterated the submissions made in appeal memeorandum.

6. I have carefully gone through the facts of the case, the impugned Order, the submissions made by the Appellant both orally and in writing, as well as the contentions advanced by the Department. The issue for determination in the present appeal is whether the confiscation of the goods under Section 111(m) of the Customs Act, 1962, along with the imposition of redemption fine under Section 125 and penalty under Section 114(AA) of the Customs Act, 1962, as ordered by the Adjudicating Authority, is legally sustainable in the facts and circumstances of the case.

6.1 Upon examination of the case records, it is observed that the Adjudicating Authority held the goods liable to confiscation on the ground of misdeclaration of description. The Appellant had declared the goods as "S/L of Mix Plastic Sheet, Cuttings, Offcuts, Flakes, Granules in irregular sizes & mix colors floor sweep" under Customs Tariff Heading (CTH) 39201019, whereas the Department classified the goods as "PET flakes (chip)" under CTH 39076110. It is further observed that the description declared by the Appellant was general in nature, whereas the specific description of the goods was PET flakes. It is also noted that the Appellant had filed the Bills of Entry solely on the basis of the description provided by the overseas supplier in the purchase invoice, bill of lading, and

other import documents. Hence, it cannot be inferred that the Appellant had intentionally misdeclared the description of the goods.

6.2 Furthermore, the Appellant, acting on behalf of the importer, was bound to declare the particulars as reflected in the import documents and could not have declared any other description. There is also not even a shred of evidence to suggest that such declaration had any bearing on the duty liability in the present case. The principal contention of the Department was that the goods imported were restricted items requiring prior authorization from the Directorate General of Foreign Trade (DGFT) and the Ministry of Environment, Forest and Climate Change (MoEF&CC), and that the misdeclaration was intended to evade import restrictions under the Foreign Trade Policy and SEZ regulations. However, the Adjudicating Authority itself has categorically held that the imported goods were not restricted. Therefore, it cannot, under any circumstances, be concluded that the Appellant intentionally misdeclared the goods while filing the Bills of Entry.

6.3 Moreover, there is not even a scintilla of evidence to indicate that the Appellant deviated from the import documents or made any misdeclaration with mala fide intent to circumvent import restrictions or evade customs duty. It is also pertinent to note that there are no allegations that the rate of duty under the heading declared by the Appellant is lower than that applicable under the heading adopted by the Department. On the contrary, the tariff heading declared by the Appellant attracts 10% Basic Customs Duty, whereas the heading reclassified by the Department attracts only 7.5% Basic Customs Duty. Hence, under no circumstances can it be inferred that the Appellant intentionally declared the goods under a heading attracting a higher rate of duty in order to evade customs duty or gain any undue benefit.

6.4 In view of the above factual matrix, I am of the considered opinion that the charge of misdeclaration of goods is not substantiated. Accordingly, the confiscation of goods under Section 111(m) of the Customs Act, 1962, as ordered by the Adjudicating Authority, is not justified and is therefore set aside.

Consequently, the imposition of redemption fine under Section 125 of the Customs Act, 1962, also does not survive.

6.5 With respect to the penalty imposed under Section 114(AA) of the Customs Act, 1962, I find that the presence of mens rea is an essential element for invoking this provision. As it has been clearly established from the foregoing findings that there was no mala fide intent on the part of the Appellant, the requisite element of mens rea is absent in the present case. Accordingly, the penalty imposed under Section 114(AA) is not sustainable and is hereby set aside.

6.6 As regards the penalty imposed under Section 112 of the Customs Act, 1962, I have perused the findings of the Adjudicating Authority in paragraph 18 of the impugned Order and do not find any infirmity in the reasoning or conclusion recorded therein.

7. In light of the foregoing observations, the appeals filed by both the Appellant and the Department are hereby disposed of accordingly.

(AMIT GUPTA)
Commissioner (Appeals),
Customs, Ahmedabad

F. No. S/49-06/CUS/KDL/2024-25 Date: 30.10.2025
F. No. S/49-02/CA-2/CUS/KDL/2024-25

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2. The Assistant/Deputy Commissioner of Customs (Adjudication), O/o The Principal Commissioner of Customs, New Customs Building, Nr. Balaji Temple, Kandla.

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