



सीमाशुल्क(अपील) आयुक्तकाकार्यालय,

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), अहमदाबाद AHMEDABAD,

चौधी मंज़िल 4th Floor, हडकोभवन HUDCO Bhavan, ईश्वर भुवन रोड़ IshwarBhuvan Road,

नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009 दूरभाषक्रमांक Tel. No. 079-

26589281

DIN – 20250571MN0000999D67

क	फ़ाइलसंख्या FILE NO.	S/49-46/CUS/AHD/24-25
ख	अपीलआदेशसंख्या ORDER-IN- APPEAL NO. (सीमाशुल्कअधिनियम, 1962 कीधारा 128ककेअंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	AHD-CUSTM-000-APP-37-2025-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	21.05.2025
ङ	उद्भूतअपीलआदेशकीसं. वदिनांक ARISING OUT OF ORDER-IN- ORIGINAL NO.	OIO No. 73/DC/CHH/REFUND/2023-24, dated 19.02.2024 passed by The Deputy Commissioner of Customs, Hazira Port, Surat.
च	अपीलआदेशजारीकरनेकीदिनांक ORDER- IN-APPEAL ISSUED ON:	21.05.2025
छ	अपीलकर्तकानामवपता NAME AND ADDRESS OF THE APPELLANT:	M/s Hindalco Industries Ltd., (Unit: Birla Copper), Po: Lakhigam, Village- Dahej, Taluka-Vagra, Dist. Bharuch, Gujarat- 392130.



- यहप्रतिउसव्यक्तिकेनिजीउपयोगकेलिएमुफ्तमेंदीजातीहैजिनकेनामयहजारीकियागयाहै.  
This copy is granted free of cost for the private use of the person to whom it is issued.
- सीमाशुल्कअधिनियम 1962 कीधारा 129 डीडी (1) (यथासंशोधित)  
केअधीननिम्नलिखितश्रेणियोंकेमामलोंकेसम्बन्धमेंकोईव्यक्तिइसआदेशसेअपनेकोआहतमहसूसकरताहोतोइसआदेशकीप्राप्तिकीतारीखसे 3 महीनेकेअंदरअपरसचिव/संयुक्तसचिव (आवेदनसंशोधन), वित्तमंत्रालय,  
(राजस्वविभाग) संसदमार्ग, नईदिल्लीकोपुनरीक्षणआवेदनप्रस्तुतकरसकतेहैं.

	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.
	निम्नलिखितसम्बन्धितआदेश/Order relating to :
(क)	बैगेजकेरूपमेंआयातितकोईमाल.
(a)	any goods imported on baggage.
(ख)	भारतमेंआयातकरनेहेतुकिसीवाहनमेंलादागयालेकिनभारतमेंउनकेगन्तव्यस्थानपर उतारेनगएमालयाउसगन्तव्यस्थानपरउतारेजानेकेलिएअपेक्षितमालउतारेनजानेपरयाउसगन्तव्यस्थानपरउतारेगएमालकीमात्रामेंअपेक्षितमालसेकमीहो.
(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)	सीमाशुल्कअधिनियम, 1962 केअध्यायX तथाउसकेअधीनबनाएगएनियमोंकेतहतशुल्कवापसीकीअदायगी.
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
3.	पुनरीक्षणआवेदनपत्रसंगतनियमावलीमेंविनिर्दिष्टप्रारूपमेंप्रस्तुतकरनाहोगाजिसकेअन्तर्गतउसकीजांचकीजाएगी औरउसकेसाथनिम्नलिखितकागजातसंलग्नहोनेचाहिए :
	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)	कोर्टफीएक्ट, 1870केमदसं.6 अनुसूची 1 केअधीननिर्धारितकिएगएअनुसारइसआदेशकी 4 प्रतियां, जिसकीएकप्रतिमेंपचासपैसेकीन्यायालयशुल्कटिकटलगाहोनाचाहिए.
(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)	सम्बद्धदस्तावेजोंकेअलावासाथमूलआदेशकी 4 प्रतियां, यदिहो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षणकेलिएआवेदनकी 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षणआवेदनदायरकरनेकेलिएसीमाशुल्कअधिनियम, 1962 (यथासंशोधित) मेंनिर्धारितफीसजोअन्यरसीद, फीस, दण्ड, जब्तीऔरविविधमदोंकेशीर्षकेअधीनआताहैमेंरु. 200/- (रूपएदोसौमात्र) या रु. 1000/- (रूपएएकहजारमात्र), जैसाभीमामलाहो, सेसम्बन्धितभुगतानकेप्रमाणिकचलानटी.आर.6 कीदोप्रतियां. यदिशुल्क, मांगागयाब्याज, लगायागयादंडकीराशिऔररूपएएकलाखयाउससेकमहोतोऐसेफीसकेरूपमेंरु. 200/- औरयदिएकलाखसेअधिकहोतोफीसकेरूपमेंरु. 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.	मदसं. 2 केअधीनसूचितमामलोंकेअलावाअन्यमामलोंकेसम्बन्धमेंयदि कोईव्यक्तिइसआदेशसेआहतमहसूसकरताहोतोवेसी माशुल्कअधिनियम 1962 कीधारा 129 ए (1) केअधीनफॉर्मसी.ए.-3 मेंसीमाशुल्क, केन्द्रीयउत्पादशुल्कऔरसेवाकरअपीलअधिकरणकेसमक्षनिम्नलिखितपतेपरअपीलकरसकतेहैं
	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, केन्द्रीयउत्पादशुल्कवसेवाकरअपीलियअधिकरण, पश्चिमीक्षेत्रीयपीठ
	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench





	दूसरीमंज़िल, बहुमालीभवन, निकटगिरधरनगरपुल, असारवा, अहमदाबाद-380016	2 <sup>nd</sup> Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	सीमाशुल्कअधिनियम, 1962 कीधारा 129 ए (6) केअधीन, सीमाशुल्कअधिनियम, 1962 कीधारा 129 ए(1) केअधीन अपीलकेसाथ निम्नलिखित शुल्कसंलग्नहोनेचाहिए-	
	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)	अपीलसेसम्बन्धितमामलेमेंजहांकि सीसीमाशुल्कअधिकारीद्वारा मांगा गया शुल्क और व्याज तथालगाया 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)	अपीलसेसम्बन्धितमामलेमेंजहांकि सीसीमाशुल्कअधिकारीद्वारा मांगा गया शुल्क और व्याज तथालगाया 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 ;	
(ग)	अपीलसेसम्बन्धितमामलेमेंजहांकि सीसीमाशुल्कअधिकारीद्वारा मांगा गया शुल्क और व्याज तथालगाया 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 आदेशके विरुद्ध अधिकरणके सामने, मांगा गया शुल्कके 10% अदा करनेपर, जहां शुल्क या शुल्क एवं दंड विवादमें है, या दंडके 10% अदा करनेपर, जहां केवल दंड विवादमें 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 आदेशके लिए गलतियोंको सुधारनेके लिए या किसी अन्य प्रयोजनके लिए कि एगए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तनके लिए दायर आवेदनके साथ रुपये पाँच सौ का शुल्क भी संलग्न होनेचाहिए.	
	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 Hindalco Industries Ltd., (Unit: Birla Copper), Po: Lakhigam, Village-Dahej, Taluka-Vagra, Dist. Bharuch, Gujarat-392130 (hereinafter referred to as the "appellant") have filed the present appeal in terms of Section 128 of the Customs Act, 1962 against the OIO No. 73/DC/CHH/REFUND/2023-24 dated 19.02.2024 (hereinafter referred to as the "impugned order") issued by the Deputy Commissioner of Customs, Hazira Port, Surat (hereinafter referred to as the "adjudicating authority").

2. Briefly stated, facts of the case are that the appellant, holders of IEC 0388147237, is engaged in the manufacturing of Copper Cathodes, Continuous Cast Copper Rod etc. The Appellant vide Bills of Entry No. 5395416 dated 06.04.2023, 5510533 dated 14.04.2023, 5510349 dated 14.04.2023 and 5511648 dated 14.04.2023 had imported Copper Anodes at Hazira Port, Surat and had paid the Customs duty of Rs.32,68,06,203/- on 18.04.2023. However, the appellant informed that the said payment was debited from their bank but did not credit to their Electronic Cash Ledger instantly due to technical glitches on ICEGATE portal but it was reflected on 10.05.2023 and therefore, they could set off the duty payment against the amount credited in Electronic Cash Ledger along with additional interest of Rs.29,54,686/- on 11.05.2023.

2.1 Therefore, the appellant had filed the refund claim of interest for which Show Cause Notice No. CH<sup>9</sup>/44/Hazira/Refund/2023-24 dated 27-01-2024 was issued proposing to reject the refund claim of interest of Rs.29,54,686/- under the provisions of Section 27 of the Customs Act, 1962 read with Customs (Waiver of Interest) Order No. 3/2023-Customs (N.T.) dated 17.04.2023.

3. Thereafter, the adjudicating authority vide impugned order rejected the refund claim stating that *"I find that in the instant case, the duty payment by the claimant for the subject bills of entry is on 18.04.2023 and as per Customs (Waiver of Interest) Order No. 3/2023-Customs (N.T.) dated 17.04.2023, duty payment for the specific Bill of Entry should be initiated on or before 13.04.2023. Therefore, the refund claim application filed by the claimant is untenable by the limitation of date of payment as prescribed under Customs (Waiver of Interest) Order No. 3/2023-Customs (N.T.) dated 17.04.2023 and thus, the refund claim filed by the claimant is improper and liable to be rejected."*





4. Being aggrieved with the impugned order, the Appellant have filed the present appeal and mainly contended the following:

- That the impugned order rejected the refund claim without proper reasoning or consideration of appellant's submissions.
- That Customs duty of Rs.32,68,06,203/- was paid on 18.04.2023 through bank debit—confirmed by SBI certificate and Due to technical issues on ICEGATE, the payment was not reflected in the Electronic Cash Ledger until 10.05.2023.
- That interest of Rs.29,54,686/- was paid on 11.05.2023 purely due to delayed ledger reflection, not due to any fault of the appellant and for evidence the appellant had submitted Mandate form, UTR, and bank confirmations submitted; also included correspondence with ICEGATE and Customs.
- Further, the department had manually cleared goods on 25.04.2023, acknowledging timely payment and CBIC itself acknowledged ICEGATE issues by issuing Orders No. 1/2023, 2/2023 & 3/2023 (Annexure-IX), waiving interest for earlier periods until 13.04.2023; similar waiver should apply beyond that date since glitches continued.
- That Once payment is made to government account, ledger update is a system function—assessee cannot be penalized for its failure.

#### **PERSONAL HEARING**

5. Shri Ghanshyam Chudasama, authorised signatory of the appellant attended the personal hearing on 13.05.2025 in virtual mode. He reiterated the submission made in the appeal memorandum and also submitted the copy of advisory issued by DG systems dated 27.07.2023 regarding the same matter and has also submitted the copies of Judgment of the Hon'ble High Court of Gujarat in the matter of M/s Vishnu Aroma Pouching Pvt. Ltd. v/s Union of India - 2021 (50) GSTL 337 (SC) and Judgment of Hon'ble High Court of Rajasthan in the matter of M/s Grain Energy Pvt. Ltd v/s Deputy Commissioner, Customs, ICD Jodhpur.



**DISCUSSION & FINDINGS**

6. I have gone through the appeal memorandum filed by the appellant, records of the case and submissions made during personal hearing. The main contention in the appeal is whether the claim of refund of interest rejected vide impugned order in terms of Section 27 Customs Act, 1962 read with Customs (Waiver of Interest) Order No. 3/2023-Customs (N.T.) dated 17.04.2023 in the facts and circumstances of the case, is legal and proper or otherwise.

6.1 Before going into the merits of the case, I find that as per CA-1 Form of the Appellant, the present appeal has been filed on 17.04.2024 against the impugned order dated 19.02.2024 which is within the statutory time limit of 60 days prescribed under Section 128(1) of the Customs Act, 1962. As the appeal has been filed within the stipulated time-limit, it has been admitted and being taken up for disposal in terms of Section 128A of the Customs Act, 1962.

6.2 It is observed that the Appellant have heavily emphasized on the **Hon'ble High Court of Gujarat in the matter of M/s Vishnu Aroma Pouching Pvt. Ltd. v/s Union of India - 2021 (50) GSTL 337 (SC)** and Judgment cited by **Hon'ble High Court of Rajasthan in the matter of M/s Grain Energy Pvt. Ltd v/s Deputy Commissioner, Customs, ICD Jodhpur dated 05.02.2025** wherein the identical issue has been discussed and the refund of interest was allowed.

In view of the same, the relevant para of the Judgment cited by Hon'ble High Court of Rajasthan in the matter of M/s Grain Energy Pvt. Ltd v/s Deputy Commissioner, Customs, ICD Jodhpur is reproduced as below:

"....

*18. This Court finds that the order dated 17.04.2023 acknowledged the technical difficulties to have been resolved only to a large extent, but not entirely. The order dated 17.04.2023 itself stipulates the requirement of waiver of the interest as per the certification given by the D.G. Systems regarding the duty and interest from the date of removal of such system inability at the Common Portal. Since, the date of removal of system inability at the common portal has been certified by the D.G. Systems vide advisory dated 27.07.2023 to be 27.07.2023 itself, therefore, the respondents cannot claim interest and will have to refund any interest which has been taken by them for the transaction in question, particularly, when the petitioner made the necessary payments in pursuance of the bill of entry having been returned, though the payment itself may have a third party failure, which cannot be attributed to the present petitioner. The certification by the D.G. Systems of the technical difficulties in existence making the system having inability at the Common Portal upto 27.07.2023 clinches the issue of refund*

*[Handwritten signature]*





in accordance with Section 27 of the Act of 1962 read with the Circular dated 17.04.2023.

19. The judgment cited by learned counsel for the petitioner in the case of Vishnu Aroma Pouching Pvt. Ltd. (supra) establishes broad parameters for technical failure and holds that no interest is demandable from the persons for delay in crediting to the government account, particularly, when the delay is due to technical glitches.

20. This Court is firmly of the opinion that the impugned order dated 21.11.2023 suffers from inconsistency with conjoint reading of Section 47 and Section 27 of the Act of 1962, order dated 17.04.2023, [2025:RJ-JD:7191-DB] (9 of 9) [CW-2648/2024] the advisory issued on 27.07.2023 and the effort of the petitioner to make the necessary payments to the Banks successfully on 20.04.2023 vide Annexure-8.

21. In light of the foregoing discussion, the present petition is allowed, and while quashing and setting the impugned order dated 21.11.2023, the respondents are directed to refund the amount in question pertaining to the interest of the said period to the petitioner within a period of three months from the date of receipt of certified copy of this order. Stay petition stands disposed of."

3. Accordingly, this writ petition is also allowed in the light of the decision rendered in M/s Grain Energy Pvt. Ltd. (supra) on the same terms. The impugned order dated 21.11.2023 is hereby quashed and set aside and the respondents are directed to refund the amount in question pertaining to the interest of the said period to the petitioner within a period of three months from the date of receipt of certified copy of this order. Stay petition stand disposed of."



In view of the above, I find that the Hon'ble High Court of Rajasthan has addressed the issue of interest levied due to technical glitches on the ICEGATE portal and observed that the petitioner had made the customs duty payment on time, but due to system errors, the amount was not reflected in the Electronic Cash Ledger, leading to an unjust interest demand. The Hon'ble High Court, relying upon Judgment cited by Hon'ble High Court of Gujarat in the matter of M/s Vishnu Aroma Pouching Pvt. Ltd. v/s Union of India, has emphasized that when the delay in ledger reflection is attributable to technical faults in the government's system, and not due to any lapse on the part of the assessee, levying interest is unwarranted and consequently, directed the refund of the interest amount collected under such circumstances.

6.3 I find that the matter involved in the case of M/s Grain Energy Pvt. Ltd v/s Deputy Commissioner, Customs, ICD Jodhpur decide by Hon'ble High Court of Rajasthan vide Order dated 05.02.2025, is identical in nature and squarely covers the present case as they had also dealt with the claim of refund

of interest in the present case. In view of the same, the adjudicating authority shall examine the facts of the case and decide the issue on the basis of the said Judgments of Hon'ble High Court of Rajasthan in the case of M/s Grain Energy Pvt. Ltd v/s Deputy Commissioner, Customs, ICD Jodhpur and Hon'ble High Court of Gujarat in the matter of M/s Vishnu Aroma Pouching Pvt. Ltd. v/s Union of India.

7. In view of the above discussion, I allow appeal by way of remand to the adjudicating authority with the direction to pass the fresh speaking order in light of the aforesaid judgments.

  
(AMIT GUPTA)

COMMISSIONER (APPEALS)  
CUSTOMS, AHMEDABAD

F. Nos. S/49-46/CUS/AHD/24-25

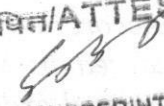
Dated - 21.05.2025

By Registered Post A.D.

To,

M/s Hindalco Industries Ltd., (Unit: Birla Copper),  
Po: Lakhigam, Village- Dahej,  
Taluka-Vagra, Dist. Bharuch,  
Gujarat-392130



સહકારિત/ATTESTED  
  
અધીક્ષક/SUPERINTENDENT  
સીમા શુલ્ક (અપીલ), અહમદાબાદ.  
CUSTOMS (APPEALS), AHMEDABAD

**Copy to:**

1. ✓ The Chief Commissioner of Customs Gujarat, Customs House, Ahmedabad.
2. The Pr. Commissioner of Customs, Customs Ahmedabad.
3. The Deputy/Assistant Commissioner of Customs, Hazira Port, Surat.
4. Guard File.