



सीमाशुल्क(अपील) आयुक्तकाकार्यालय,
OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS),
अहमदाबाद AHMEDABAD,
चौथी मंज़िल 4th Floor, हडकोभवनHUDCO Bhavan, ईश्वर भुवन रोड़ IshwarBhuvan Road,
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009 दूरभाषक्रमांक Tel. No. 079-
26589281
DIN – 20250671MN0000222C6F

क	फ़ाइलसंख्या FILE NO.	S/49-90/CUS/MUN/2024-25
ख	अपीलआदेशसंख्या ORDER-IN- APPEAL NO. (सीमाशुल्कअधिनियम, 1962 कीधारा 128ककेअंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	MUN-CUSTM-000-APP-114-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	30.06.2025
ङ	उद्भूतअपीलआदेशकीसं. वदिनांक ARISING OUT OF ORDER-IN- ORIGINAL NO.	OIO No. MCH/ADC/AK/11/2024-25, dated 16.04.2024
च	अपीलआदेशजारीकरनेकीदिनांक ORDER- IN-APPEAL ISSUED ON:	30.06.2025
छ	अपीलकर्ताकानामवपता NAME AND ADDRESS OF THE APPELLANT:	M/s. AWL Agri Business Limited (formerly known as Adani Wilmar Limited), Survey No.169/P-1,2 & 3, Village Dhrub, Taluka – Mundra, Dist. Kutch, Gujarat-370421

1.	यहप्रतिउसव्यक्तिकेनिजीउपयोगकेलिएमुफ्तमेंदीजातीहैजिनकेनामयहजारीकियागयाहै. This copy is granted free of cost for the private use of the person to whom it is issued.
2.	सीमाशुल्कअधिनियम 1962 कीधारा 129 डीडी (1) (यथासंशोधित) केअधीननिम्नलिखितश्रेणियोंकेमामलोंकेसम्बन्धमेंकोईव्यक्तिइसआदेशसेअपनेअपीलमेंहसूसकरताहोतोइसआ देशकीप्राप्तिकीतारीखसे 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)	भारतमेंआयातकरनेहेतुकिसीवाहनमेंलादागयालेकिनभारतमेंउनकेगन्तव्यस्थानपरउतारेनगएमालयाउसगन्तव्यस्थानपरउतारेजानेकेलिएअपेक्षितमालउतारेनजानेपरयाउसगन्तव्यस्थानपरउतारेगएमालकीमात्रामेंअपेक्षितमालसेकमीहो.
(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)	सम्बद्धदस्तावेजोंकेअलावासाधमूलआदेशकी 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 कोईव्यक्तिइसआदेशसेआहतमहसूसकरताहोतोवेसीमाशुल्कअधिनियम 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, केंद्रीयउत्पादशुल्कवसेवाकरअपीलियअधिकरण, पश्चिमीक्षेत्रीयपीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench



	दूसरीमंजिल, बहुमालीभवन, निकटगिरधरनगरपुल, 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 जहाँ कि सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लागाया 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 जहाँ कि सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लागाया गया दंड की रकम पाँच लाख रूपए से अधिक हो ले किन 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)	अपील से सम्बन्धित मामले में जहाँ कि सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लागाया 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, जहाँ शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के 10% अदा करने पर, जहाँ 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. AWL Agri Business Limited (formerly known as Adani Wilmar Limited), Survey No.169/P-1,2 & 3, Village Dhrub, Taluka – Mundra, Dist. Kutch, Gujarat-370421 (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. MCH/ADC/AK/11/24-25, dated 16.04.2024 (hereinafter referred to as the “impugned order”) passed by the Additional Commissioner of Customs, Customs House, Mundra (hereinafter referred to as the “adjudicating authority”).

2. Briefly stated, facts of the case are that the Appellant, holders of IEC No. 0899000363, had imported RBD Palm Stearin classified under CTH No. 15119030 vide Bill of Entry bearing Nos. 6981363 dtd. 27.06.2018 and 9302647 dtd.18.12.2018 through their Customs Broker M/s. Narendra Forwarders, at Custom House, Mundra, and availing the benefit of Exemption under Notification No.18/2015-Cus dated 01.04.2015 (as amended by Notification No.79/2017-Cus dated 13.10.2017) under the Advance Authorization Scheme. Further, during the Audit, it appeared that the appellant was involved in the import of various duty free goods under Advance Authorization scheme issued under Chapter 4 of the Foreign Trade Policy (FTP-2015-20), in contravention to the conditions imposed vide Notification No. 18/2015-Customs, dated 01.04.2015 as amended by Notification No. 79/2017-Customs dated 13.10.2017 and the appellant did not comply with the pre-import condition, as laid down in Customs Notification No. 79/2017, dated 13.10.2017. The notifications exempted certain goods from Customs duties, subject to conditions, including a pre-import condition introduced in Notification No. 79/2017. They had imported “RBD Palm Stearin” classified under Chapter Heading 15119030 on Advance Authorization Scheme (Indirect Tax-Customs) and cleared the goods without payment of IGST @5%. However, these goods are levied @5% IGST and the pre-import condition imposed vide Notification No.79/2017-Cus. dated 13.10.2017 is not fulfilled. The condition no. (xii), inserted in Notification no. 18/2015-Customs under Notification No. 79/2017, dated 13-10-2017, was omitted vide Notification no. 01/2019-Customs dated 10.01.2019 issued by Central Board of Indirect Taxes and Customs (CBIC). Hence, the period during which the pre-import condition was



mandatory for the importer to adhere to was for the period 13.10.2017 to 09.01.2019.

2.1 Further, during the investigation, it appeared that the appellant had exported the goods prior to the import under Licenses issued under Advance Authorization Scheme and thus that the materials which were exported against the Shipping Bills, were not manufactured entirely out of the Duty free materials imported under the Advance Authorization in question; that resulted in non-compliance of the pre-import condition in respect of 02 Bills of Entry as per below mentioned under: -

Table-I

BE No.& Dt	Item Description	Ass.Value (in Rs.)	Total amount IGST (in Rs.)
6981363 dtd.27.06.18	RBD Palm Stearin	6491816	5,17,398/-
9302647 dtd.18.12.18	RBD Palm Stearin	50687909	40,39,826/-
		Total	45,57,224/-

2.2 Further, it appeared that the appellant imported various duty free inputs vide the advance authorization as mentioned above, on the strength of the subject notification and availed benefit of exemption from payment of IGST on the goods so imported, leviable in terms of Sub-section (7) of Section 3 of the Customs Tariff Act, 1975, by deliberately suppressing the fact of non-compliance of pre-import condition laid down in the subject notification. Their deliberate act of omission and/or commission by resorting to suppression of material facts from the Customs authority, appeared to have resulted in non-payment of duty of Customs in the form of Integrated Goods & Service Tax (IGST) to the extent of Rs.45,57,224/- which appeared to be recoverable under Section 28(4) of the Customs Act, 1962, along with applicable interest, and liable to penalty under Section 114A of the Customs Act, 1962.

2.2 Further, after the completion of investigation, the appellant was issued Show Cause Notice asking them as to why:

- Customs Duty amounting to Rs.45,57,224/- in the form of IGST saved in course of imports of the goods under the Advance Authorizations and the corresponding Bills of Entry in respect of which benefit of exemption under Customs Notification No. 18/2015 dated 01.04.2015, as amended by Notification No.79/2017-Cus, dated 13.10.2017, was incorrectly availed, without complying with the obligatory pre-import condition as stipulated in the said Notification, and also for contravening provisions of Para 4.14 of the Foreign Trade Policy (2015-20), should not be demanded and recovered from them under Section

28(4) of the Customs Act, 1962 and the Customs Duty amounting to Rs.45,57,224/- in the form of IGST, paid by them should not be appropriated against the above demand;

- b) Interest should not be demanded and recovered from them under Section 28AA of the Customs Act, 1962.
- c) Penalty should not be imposed upon them under Section 114A of the Customs Act, 1962.

2.3 Further, the appellant had paid the IGST amount of Rs.45,57,224/- alongwith interest of Rs.29,96,398/- by way of recall or reassessment before the authorities vide Challans dated 04.07.2023.

3. Thereafter, the Show Cause Notice was adjudicated by the adjudicating authority vide the impugned order, wherein the adjudicating authority had passed the order as detailed below:

- (i) He confirmed and ordered to recover the differential Customs duty amounting to Rs.45,57,224/- on the reassessment of the impugned Bills of Entry under Section 28(4) of the Customs Act, 1962 and ordered to appropriate the IGST amount of Rs. 45,57,224/- paid vide Challan dated 04.07.2023.
- (ii) He ordered to recover interest at the applicable rate under Section 28AA of the Customs Act, 1962 and appropriated the interest amount of Rs.29,96,398/- paid vide Challan dated 04.07.2023.
- (iii) He imposed the penalty of Rs. 45,57,224/- under Section 114A of the Customs Act, 1962.

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

- That the interest demanded under Section 28AA of the Customs Act is not applicable to IGST levied under Section 3(7) of the Customs Tariff Act. There is no charging provision for interest on IGST, as affirmed by multiple High Court and Supreme Court decisions including *Mahindra & Mahindra v. UOI*.
- That the Appellant was compelled to pay an amount equivalent to interest due to auto-calculation by the EDI system, without any statutory mandate or discretion to correct it and the same is liable to be refunded with compensatory interest @12% p.a., as recognized in cases like *Sandvik Asia Ltd. v. CIT* and *Gujarat Fluorochemicals Ltd. v. CIT*
- That Section 3(12) of the Customs Tariff Act does not borrow penalty provisions from the Customs Act. Hence, penalty under Section 114A is



not legally sustainable, as clarified by *Mahindra & Mahindra v. UOI*, *Orient Fabrics*, and *Pioneer Silk Mills* cases. The imposition of penalty is unjust when there is widespread confusion across the industry, as evidenced in *H.M. Singh & Co. v. CCE & ST*. Numerous similar notices were issued to exporters due to the ambiguous 'pre-import' condition.

- That the case pertains to a legal interpretation (on 'pre-import' condition). Multiple judicial precedents establish that penalty is not leviable in cases involving interpretational issues – e.g., *Lanxess ABS Ltd.*, *Rajhans Metals*, *Mech & Fab Industries*.
- That the export obligation was fulfilled in accordance with para 4.27 of the Handbook of Procedures, which permitted exports in anticipation of advance authorization. The Appellant complied with established practices. The authorization issued did not explicitly stipulate the 'pre-import' condition, nor was any communication issued later. Thus, its retrospective enforcement is not tenable.
- That the validity of the 'pre-import' condition was upheld only after the Supreme Court's ruling in *Cosmo Films Ltd.* (April 2023) and CBIC Circular No. 16/2023-Cus (June 2023). The imports in question were made prior to both.
- They have relied upon the various case laws, few of which are as under:
 - a. *Mahindra and Mahindra Ltd. v. Union of India* [2022 (10) TMI 212 (Bom. HC)]
 - b. *India Carbon Ltd. v. State of Assam* [1997 (6) SCC 479]
 - c. *Gujarat Fluorochemicals Ltd. v. CIT* [2015] 55 taxmann.com 204 (Guj.)
 - d. *Sandvik Asia Ltd. v. CIT* [2006] 150 Taxman 591 (SC)
 - e. *Rajhans Metals (P) Ltd. v. CCE* [2007 (8) S.T.R. 498 (Tri.-Ahmd)]

PERSONAL HEARING



5. Shri Vaibhav K Jajoo, Advocate, attended the personal hearing on 28.05.2025 in the virtual mode on behalf of the Appellant. He reiterated the submission made in the appeal memorandum and vide their additional submission stated that the appellant respectfully relies on key judicial pronouncements to submit that the levy of interest and penalty on IGST under Section 3(7) of the Customs Tariff Act, 1975 is not legally sustainable in the absence of a specific charging provision. In *Mahindra & Mahindra Ltd. v. Union of India* [2022 (10) TMI 212], the Hon'ble Bombay High Court held that neither interest nor penalty can be levied on additional customs duties like IGST without express statutory authority, a position affirmed by the Supreme Court through dismissal of the Revenue's SLP. Similarly, in *A.R. Sulphonates Pvt. Ltd.*

v. Union of India, the Bombay High Court quashed demands of interest and penalty on IGST and held that Circular No. 16/2023-Cus, to the extent it mandates such levies, is bad in law. The Court also clarified that the amended Section 3(12) of the Tariff Act, which now enables such provisions, is prospective in nature and cannot apply to past imports. Additionally, the Supreme Court in *Sandvik Asia Ltd. v. CIT* [2006] recognized the right to compensation by way of interest where amounts are unjustly withheld. In view of these rulings, the Appellant prays for refund of the amount deposited as interest along with compensatory interest, and for setting aside the penalty imposed under the impugned order.

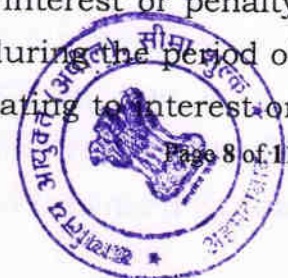
The appellant has also submitted that the name of the Company has been changed from “ Adani Wilmer Limited” to “ AWL Agri Business Limited ” and submitted a copy of Certificate of Incorporation dtd. 17.03.2025 issued by the office of ROC, Ministry of Corporate Affairs.

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 that there shall be no recovery of IGST as the appellant had imported the goods under Advance authorization scheme which are used for export purpose. Therefore, the main issues to be decided in present appeal are whether the impugned order confirming the IGST along with interest under Section 28(4) and Section 28AA respectively of the Customs Act, 1962, imposing penalty under Section 114A of the Customs Act, 1962 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 08.07.2024 against the impugned order dated 16.04.2024 received by the appellant on 09.05.2024, 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 has contended that the demand of interest and penalty on IGST is unsustainable as there is no charging provision under the Customs Tariff Act, 1975 authorizing the levy of interest or penalty on IGST. Further, Section 3(12) of the said Act, as it stood during the period of import, did not extend the provisions of the Customs Act relating to interest or

penalty to IGST levied under Section 3(7). The imposition of penalty under Section 114A is also untenable, particularly when the issue pertains to legal interpretation of the "pre-import" condition, which was ambiguous and subsequently clarified only after the Supreme Court's ruling in *Cosmo Films Ltd.* and issuance of the CBIC circular.

In this regard, it is observed that the appellant has relied upon various judicial pronouncements to support their claim. However, particular attention is drawn to the decision of the Hon'ble Bombay High Court in *Mahindra & Mahindra Ltd. v. Union of India* [2022-VIL-690-BOM-CU], wherein the Court categorically held that in the absence of a specific charging provision under the Customs Tariff Act, the levy of interest and penalty on IGST is unsustainable. This view was reaffirmed and applied in the case of *A.R. Sulphonates Pvt. Ltd. v. Union of India & Ors* [2025 (4) TMI 578 (Bom.)], where the Hon'ble High Court quashed the demand of interest and penalty on IGST levied under Section 3(7) of the Customs Tariff Act and also held that CBIC Circular No. 16/2023-Cus, to the extent it seeks to recover interest, is not legally tenable. Both decisions establish that Section 3(12) of the Customs Tariff Act, prior to its amendment effective from 16.08.2024, did not extend the provisions for interest or penalty to IGST, thereby rendering such demands devoid of legal authority.

In this regard, I have perused the aforesaid judgments and the relevant para of the Hon'ble Bombay High Court in the case of **A.R. Sulphonates vs. Union of India & Ors** is reproduced as below:

"...

70. In our view, for all the reasons stated hereinabove, the impugned Order, to the extent that it **levies interest and penalty, is without the authority of law and is liable to quashed and set aside.**

71. As far as Circular No. 16/ 2023-Customs dated 7 th June, 2023 is concerned, it seeks to recover interest along with IGST. The relevant part of the said Circular reads as under:-

"(a):- for the relevant imports that could not meet the said pre-import condition and are hence required to pay IGST and Compensation Cess to that extent, the importer (not limited to the respondents) may approach the concerned assessment APRIL 09, 2025 S.R.JOSHI 13-wp-19366-2024-judgement.doc group at the POI with relevant details for purposes of payment of the tax and cess along with applicable interest."

72. In our view, for all the reasons stated herein above, the said Circular, to the extent that **it seeks to recover interest, is bad in law.**



73. As far as redemption fine imposed by the impugned Order is concerned, the same is demanded in lieu of confiscation of goods under Section 111(o) of the Customs Act. As per Section 111(o) of the Customs Act, the goods shall be liable for confiscation in the event the condition subject to which the goods are exempted from duty is not observed. As already held by us on the basis of the Judgement of the Hon'ble Supreme Court in the case of Orient Fabrics Limited (supra), Section 3 (12) of the Tariff Act, after its amendment by Finance (No.2) Act, 2024, dated 16 th August, 2024, makes applicable the provisions relating to interest, offences and penalties of the Customs Act to the Tariff Act. As already held by us, Section 3 (12) of the Tariff Act, as amended, is applicable only after 16 th August, 2024 and is not applicable to the present case. Accordingly, in the present case, **no confiscation could have been imposed.**

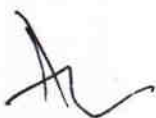
74. Further, the Joint Director General of Foreign Trade, by Trade Notice No. 7 of 2023-24 dated 8 th July, 2023 clarified that all imports made under the Advance Authorization Scheme on or after 13 th October, 2017 and APRIL 09, 2025 S.R.JOSHI 13-wp-19366-2024-judgement.doc upto and including 9th January, 2019, which could not meet the pre-import condition, may be regularized by making payments as prescribed in the Customs Circular No. 16/2023 - Customs dated 7 th June, 2023. For this reason also, **no confiscation can be done nor any redemption fine can be imposed.**

75. Further, in the present case, once the Petitioner pays the IGST, it would amount to the Petitioner not having availed the benefit of the exemption and the issue would be regularized. Therefore, the provisions of Section 111 (o) of the Customs Act will not be attracted. Consequently, **no fine and penalty would be recoverable from the Petitioner.**

.....”

In view of the above, it is observed that the issue involved in the aforesaid judgments is identical in nature and squarely covers the present case as they had also dealt with the recovery of interest and penalty as 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 aforesaid Judgments.

7. In view of the discussions made above, I allow the appeal by way of remand to the adjudicating authority with the direction to pass the fresh speaking order in light of the aforesaid judgments. 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 P. Ltd. [2012-TIOL 1317-CESTAT-DEL] and the case of Hawkins Cookers Ltd. [2012 (284) E.L.T. 677 (Tri. – Del)] wherein it was held 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.

8. The appeal is allowed by way of remand.

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

A-14p11

(AMIT GUPTA)
COMMISSIONER (APPEALS)
CUSTOMS, AHMEDABAD

F. Nos. S/49-90/CUS/MUN/24-25
1821

Dated-30.06.2025

By Registered Post A.D.

To,
M/s. AWL Agri Business Limited
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Survey No.169/P-1,2 & 3, Village Dhrub,
Taluka – Mundra, Dist. Kutch,
Gujarat-370421



Copy to:

1. The Chief Commissioner of Customs Gujarat, Customs House, Ahmedabad.
2. The Pr. Commissioner of Customs, Customs, Mundra.
3. The Additional Commissioner of Customs, Customs House, Mundra.
4. Guard File.