



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 - 20260171MN000000A346

क	फ़ाइल संख्या FILE NO.	S/49-498/CUS/MUN/NOV/2025-26
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)	MUN-CUSTM-000-APP- 637-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	13.01.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original no. MCH/ADC/ZDC/200/2025-26, dated 20.09.2025
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	13.01.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s Radhika Exports Corporation, 601, Crown Heights, Twin District Centre, Hotel Crown Plaza Complex Sec-10, Rohini, Delhi 110085



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 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 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/- (रूपए दो सौ मात्र) या रु. 1000/- (रूपए 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.	<p>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</p> <p>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 :</p> <table border="1"> <tr> <td>सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ</td> <td>Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench</td> </tr> <tr> <td>दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016</td> <td>2nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016</td> </tr> </table>	सीमाशुल्क, केन्द्रीय 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
सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench				
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5.	<p>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-</p> <p>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 -</p> <p>(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.</p> <p>(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;</p> <p>(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 हजार रूपए</p> <p>(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 ;</p> <p>(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 हजार रूपए.</p> <p>(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</p> <p>(घ) इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के 10% अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में है, या दंड के 10% अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा।</p> <p>(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.</p>				
6.	<p>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.</p> <p>Under section 129 (a) of the said Act, every application made before the Appellate Tribunal-</p> <p>(a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or</p> <p>(b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.</p>				

ORDER-IN-APPEAL

Appeal has been filed by M/s Radhika Exports Corporation, 601, Crown Heights, Twin District Centre, Hotel Crown Plaza Complex Sec-10, Rohini, Delhi 110085, (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original no. MCH/ADC/ZDC/200/2025-26, dated 20.09.2025 (hereinafter referred to as 'the impugned order') issued by the Additional Commissioner, Customs, Mundra (hereinafter referred to as 'the adjudicating authority').

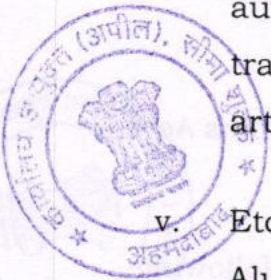
2. Facts of the case, in brief, are that the appellant imported goods declared as ALUMINIUM FOIL(SIZE:0.0053MMX1000MM) under Customs Tariff Item 76071999 through Mundra Port (INMUN1). During the course of audit of Custom House (AP & SEZ) Mundra by the CERA for the period April to September 2021, it was noticed that the appellant filed the Bill of Entry No. 5438437 dated 14.09.2021 for the clearance of goods i.e. ALUMINIUM FOIL (SIZE:0.0053MMX1000MM) under CTH 76071190 having assessable value of Rs. 1,19,98,299/- through their Custom Broker M/s. SSS SAI SHIPPING SERVICES P LTD and they have not paid Anti-Dumping Duty on import of said goods i.e. Aluminum Foil. After publication of Notification No. 51/2021-Customs (ADD) dated 16th September 2021, 'Aluminium Foil of a thickness of 80 micron and below originated in or exported from China PR, Malaysia, Thailand and Indonesia attracts the Anti-Dumping Duty. The goods covered under Bill of Entry No. 5438437 dated 14.09.2021 were imported from People's Republic of China, thus, the importer was liable to pay Anti-Dumping Duty on the imported goods terms of Notification No. 51/2021-Customs (ADD) dated 16th September 2021. Notification No. 51/2021-Customs (ADD) dated 16th September 2021 provides for levy of Anti-Dumping Duty (ADD) on 'Aluminium Foil of a thickness of 80 micron and below' originating in, or exported from China PR, Malaysia, Thailand and Indonesia, with effect from the date of publication of the notification i.e., from 16 September 2021.

2.1 Aluminum Foil for the purpose of this ADD notification means Aluminum foil whether or not printed or backed with paper, paper, board, plastics or similar packing materials of a thickness ranging from 5.5 micron to



80 micron. Further, as per the subject notification, the description of goods does not include the import of the following:-

- i. Alu Alu Laminate: Alu Alu Laminate of 40-50 Mic in AA8079 & AA8021 is a multi-Layered opaque laminate where Aluminum Foil and is backed with plastic film on both side with adhesives for use in packing capsules/tablets.
- ii. Ultra-Light Gauge Converted: Ultra Light Gauge Converted is an Aluminum Foil having thickness of 5.5 mic to 7 mic which is backed with craft paper and scrim or glass cloth whether plain or printed for use in insulation, spices packing, thermal fluid lines covering and tea bags application.
- iii. Aluminum Foil Composite: aluminum foil laminated with or backed with kraft paper and glass scrim or glass cloth with or without poly ethylene, whether printed or not printed. Aluminum foil laminated with or backed with Kraft paper however is within the scope of the product under consideration and proposed measures.
- iv. Aluminum foil for capacitors: Aluminum Foil for capacitors is an aluminum foil of 5 micron gauge with smaller width having 99.35% purity, for use in electrical equipment such as radios, televisions, telephones, computers, microwave ovens, electrical welders, magnetos, electronic testing equipment, copy machines, air conditioners, automobiles, fluorescent lights, mercury vapor street lamps, power transmission equipment, electric motors, control units, and similar articles.
- v. Etched or formed Aluminum foils: Etched or formed Aluminum foils is Aluminum foil meant to be used in the manufacture of Electrolytic capacitor.
- vi. Aluminum Composite panel: Aluminum Composite panel is a non-Aluminum core (often PE) bonded between two thin layers of Aluminum, for use in façade cladding and signage.
- vii. Clad with compatible non clad Aluminum Foil: Clad with compatible non clad Aluminum Foil is a corrosion resistant Aluminum sheet



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formed from Aluminum surface layers metallurgically bonded to high strength Aluminum alloy core material for use in engine cooling and air conditioner system in automotive industry; such as radiation, condenser, evaporator, intercooler, oil cooler and heater.

- viii. Aluminum Foil for beer bottle: Aluminum foil of 10.5 Micron with rough surface and perforated whether printed or not, to be used in beer bottle.

2.2 Accordingly, ADD at the rate 523.67 USD per MT (Exchange rate Rs.73.95 per USD) was leviable on these goods in terms of serial number 03 of ADD notification above. However, it was noticed that the said consignment was cleared without payment of ADD and corresponding 18% IGST on this ADD amount. In view of the above, it appeared that the appellant had not paid applicable Anti-Dumping duty as per Notification No. 51/2021-Customs (ADD) dated 16th September 2021 against the impugned imported goods declared as "Aluminum Foil" covered under Bill of Entry No. 5438437 dated 14.09.2021". This resulted in short payment of duty of Rs. 18,91,356/- (ADD Rs. 16,02,844/- & IGST Rs. 2,88,512/-).

2.3 Therefore, on completion of investigation, a Show Cause Notice was issued to the appellant calling upon to show cause, as to why:

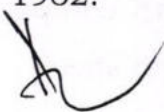
i. Differential duty amounting to Rs. 18,91,356/- (Rupees Eighteen Lakh Ninety One Thousand Three Hundred and Fifty Six Only) not paid/short paid by them on the aforesaid imported goods should not be demanded and recovered under Section 28(4) of the Customs Act, 1962.

ii. The applicable interest on the amount as at Sr. No. (i) above should not be demanded and recovered under Section 28AA of the Customs Act, 1962.

iii. Penalty should not be imposed under Section 114A of the Customs Act, 1962.

2.4 Consequently the Adjudicating Authority passed the following order:

i. He confirmed and ordered for recovery of differential duty amounting to Rs.18,91,356/- (Rupees Eighteen Lakh Ninety One Thousand Three Hundred and Fifty Six Only) not paid/short paid by them on the aforesaid imported goods under Section 28(4) of the Customs Act, 1962.




ii. He confirmed and ordered to recover applicable interest on the amount as at Sr. No. (i) above under Section 28AA of the Customs Act, 1962.

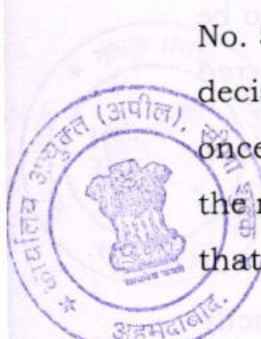
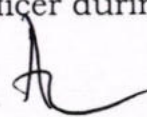
iii. He imposed a penalty of Rs. 18,91,356/- (Rupees Eighteen Lakh Ninety-One Thousand Three Hundred and Fifty-Six Only) under Section 114A of the Customs Act, 1962

SUBMISSIONS OF THE APPELLANT:

3. Being aggrieved with the impugned order, the Appellant has filed the present appeal against the order passed by the Additional Commissioner, Customs, Mundra. The Grounds of Appeal are not reproduced in detail for sake of brevity, as the copy of the same is available with the Appellant as well Respondent. However, the same have been examined and the brief is as under:

3.1 The appellant contends that the rate of customs duty should be determined by the date the Bill of Entry is presented under Section 46 of the Customs Act, 1962, rather than the date of "Entry Inward" as per the proviso to Section 15. In this case, an Advance Bill of Entry was filed on September 14, 2021, two days before Anti-Dumping Duty (ADD) was introduced via Notification No. 51/2021-Customs on September 16, 2021. Relying on the Supreme Court's decision in Union of India v. G.S. Chatha Rice Mills, the appellant argues that once a bill of entry is presented electronically and self-assessment is completed, the rate of duty is crystallized and cannot be altered by a subsequent notification that was not "in force" at the time of presentation.

3.2 The appellant argues that the demand for ADD and differential IGST is barred by the limitation period under Section 28(4) of the Customs Act. They maintain that there was no "willful mis-declaration, collusion, or suppression of facts" because the Bill of Entry was filed correctly in advance according to the law at that time. While the normal limitation period for such a notice is two years, the department issued the Show Cause Notice on July 20, 2025, nearly four years after the filing on September 14, 2021. The appellant asserts that the extended five-year period cannot be invoked simply because of a difference in interpretation or an alleged error by the proper officer during the initial



assessment.

3.3 The appellant submits that once a Bill of Entry has been finally assessed and an "Out of Charge" order has been given, it constitutes a final order of assessment. If the Revenue believed an error had been made regarding the applicable duty date (September 15 vs. September 23), the proper legal recourse was to file an appeal against the assessment under Section 128 within the prescribed 60 to 90-day window. The appellant argues that the department cannot bypass this appellate process by issuing a Show Cause Notice years later based on a "change of mind" or a new interpretation of existing facts, citing the precedent in PSL Limited v. Commissioner of Customs.

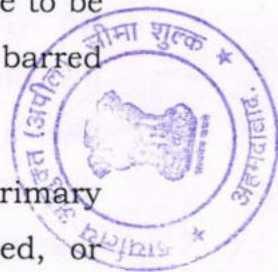
PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 02.01.2026 following the principles of natural justice wherein Shri Vijay N Thakkar , Consultant appeared on behalf of the appellant and re-iterated the submissions made at the time of filing the appeal.

DISCUSSION AND FINDINGS:

5. I have carefully gone through the case records, impugned order passed by the Additional Commissioner, Customs, Mundra and the defense put forth by the Appellant in their appeal. I have carefully gone through the facts of the case, the grounds of appeal, and the records available. The core issue to be decided is whether the SCN issued in 2025 for imports made in 2021 is barred by limitation under Section 28 of the Customs Act, 1962 or otherwise.

5.1 Section 28 of the Customs Act, 1962, serves as the primary machinery provision for the recovery of duty not levied, short-levied, or erroneously refunded. However, this power is not unfettered and is strictly governed by prescribed timelines that serve as a "statute of repose," ensuring that tax assessments achieve finality within a reasonable period. The Normal Period (Section 28(1)) is for cases where there is no element of fraud or deliberate deception, the notice must be served within two years from the relevant date. This period was increased from one year to two years by the Finance Act, 2016, to give the department adequate time for post-clearance audit and scrutiny. The Extended Period (Section 28(4)) is an extraordinary provision allowing the



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department to reopen assessments up to five years back. However, the use of this provision is strictly conditional upon the existence of "collusion, or any wilful mis-statement or suppression of facts by the importer or the exporter or the agent or employee of the importer or exporter."

5.2 The calculation of the two-year or five-year period hinges on the "Relevant Date" as defined in Section 28(11). For imported goods, the relevant date is the date on which the "proper officer" makes an order permitting the clearance of the goods for home consumption under Section 47. In the present case, the imports occurred in the year 2021. Assuming the latest import date of December 31, 2021, the normal two-year limitation period expired on December 31, 2023. Any notice issued after this date, such as the present SCN issued in 2025, is prima facie time-barred unless the specific conditions of Section 28(4) are satisfied.

5.3 The Hon'ble Supreme Court has consistently held that the mere non-payment of duty is not enough to invoke the extended period. There must be a "positive act" of concealment. In **Cosmic Dye Chemical vs. Collector of Central Excise 1995 (75) E.L.T. 721 (S.C.)**, the Apex Court held that the "intent to evade" is a prerequisite for invoking the extended period. If the misstatement or suppression is not "wilful," the department cannot claim the five-year window.

5.4 With the introduction of Self-Assessment under Section 17 in 2011, the primary responsibility for correct classification lies with the importer. However, this does not mean the department can sleep over its rights. The department is provided with powers of verification (Section 17), examination (Section 18), and Audit (Section 99A). If the department, having access to all documents via the EDI system and the Bill of Entry, fails to challenge the self-assessment within two years, it cannot later invoke the extended period by simply labeling a difference of opinion as "suppression." The limitation period also accounts for what the department "could have known." If an importer provides a description of goods and a specific CTH, the department's "proper officer" has the duty to verify this. If the officer passes the Bill of Entry, the department is deemed to have constructive knowledge of the facts. In **CCE vs. Chemphar Drugs & Liniments 1989 (40) E.L.T. 276 (S.C.)**, it was held that when all facts are before the department, the question of suppression does not arise.

5.5 The Adjudicating Authority has held that the Appellant "suppressed" the correct classification. I find this reasoning legally untenable for a number of reasons. In the legal landscape of Customs and Excise, "suppression" is not synonymous with a simple "failure to disclose." For an omission to escalate to the level of suppression under Section 28(4), it must be accompanied by a deliberate intent to hide information that the taxpayer was legally bound to provide. As held by the Hon'ble Supreme Court in **Continental Foundation Jt. Venture vs. CCE 2007 (216) E.L.T. 177 (S.C.)**, the word "suppression" is used in the company of words like "fraud" and "collusion," which implies that there must be some "positive act" of concealment. A mere failure to state a fact, which might be due to an oversight or a difference of interpretation, does not constitute suppression. In the instant case, the Appellant declared the goods in the Bill of Entry and provided the supporting invoices. The department's disagreement with the classification in 2025 cannot transform a 2021 declaration into a "suppression of facts."

5.6 The charge of suppression fails when the department has the "means of knowledge." Since the imports were cleared through the EDI system, all declarations were available to the "proper officer." Under the "risk management system" (RMS) and "post-clearance audit" (PCA), the department has every tool to verify the correctness of the Bill of Entry. The Hon'ble Supreme Court in **Uniworth Textiles Ltd. vs. CCE 2013 (288) E.L.T. 161 (S.C.)**, reiterated that if the department was aware of the facts, or if the facts were on record, the extended period cannot be invoked. In the present case, the Appellant submitted the technical description of the goods. If the Customs officer, with the technical literature in hand, failed to reassess the classification in 2021, the blame for the delay lies with the department, not the Appellant.

5.7 Classification of goods is a complex legal and technical exercise. It is a common occurrence in Customs law that an importer claims one Tariff Heading while the department prefers another. This is a "technical dispute." The Hon'ble Supreme Court in **Northern Plastic Ltd. vs. Collector of Customs, 1998 (101) E.L.T. 549 (S.C.)** held that when an assessee claims a particular classification based on their understanding of the Tariff, it is a bona fide claim. Such a claim, even if ultimately rejected by the courts, cannot be categorized as a "willful misstatement." The Appellant's belief in a specific CTH, supported by

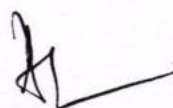


their trade practice, constitutes a bona fide belief that precludes the invocation of Section 28(4).

5.8 The Adjudicating Authority's finding of suppression is a "bare assertion" unsupported by evidence. To prove "willful misstatement," the department must show that the Appellant knew the statement was false at the time it was made. No such evidence has been brought on record. In **Pushpam Pharmaceuticals Co. vs. CCE 1995 (78) E.L.T. 401 (S.C.)**, it was clarified that suppression means "wilful suppression" and not "mere non-declaration." Since the Appellant declared the goods and the value, they cannot be accused of being "willful" in their alleged error. If the Appellant acted under a bona fide belief that their classification was correct, the extended period cannot be applied. Given the complexity of the Customs Tariff, a difference of opinion is a regular occurrence and does not automatically imply fraud.

5.9 The Adjudicating Authority relied on cases suggesting that the burden of correctness lies on the importer under self-assessment. While true, this does not grant the department a "blanket extension" of limitation. The limitation period is a statute of repose intended to protect taxpayers from indefinite liability. On the other hand, the Appellant's reliance on Uniworth Textiles Ltd. is highly relevant. The Supreme Court in that case clarified that "omission" is not "suppression." Since the Appellant omitted nothing, the charge of suppression fails.

5.10 The imports were made in 2021. The SCN was issued in 2025. The gap of approximately four years is well beyond the normal limitation period of two years. Since the department has failed to establish the ingredients of Section 28(4)—namely, collusion, willful misstatement, or suppression with intent to evade—the SCN is hit by limitation. Based on the detailed discussion above, I find that the imports took place in 2021 and were cleared by Customs after due process. The SCN issued in 2025 is time-barred as per the normal period defined in Section 28(1). No evidence of "intent to evade" has been produced to justify the invocation of the extended period under Section 28(4). The demand, interest, and penalties are legally unsustainable on the grounds of limitation alone.



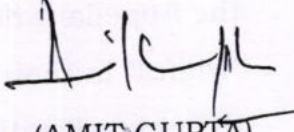
6. In view of the detailed findings above, I pass the following order:

(i) The appeal filed by M/s Radhika Exports Corporation is allowed on the ground of limitation.

(ii) The Order-in-Original No. MC/ADC/ZDC/200/2025-26 dated 20.09.2025 is hereby set aside.

सत्यापित/ATTESTED

अधीक्षक/SUPERINTENDENT
सीमा शुल्क (अपील्स), अहमदाबाद.
CUSTOMS (APPEALS), AHMEDABAD


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

F. No. S/49-498/CUS/MUN/NOV/2025-26 ⁵²⁵⁰

Date: 13.01.2026

By Speed Post/E-Mail

To,
M/s Radhika Exports Corporation,
601, Crown Heights, Twin District Centre,
Hotel Crown Plaza Complex Sec-10,
Rohini, Delhi 110085



Copy to:

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