



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-20260371MN0000005348

क	फ़ाइल संख्या FILE NO.	S/49-315/CUS/MUN/24-25
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)	MUN-CUSTM-000-APP- 906 -25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	30.03.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original no. MCH/ADC/AKM/180/2024-25 dated 28.10.2024
	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	30.03.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s Agrim Chemtech, C-11/14, Sector-3, Rohini, Delhi



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. 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.	मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :
	सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ
	<b>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</b>
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016
	2 <sup>nd</sup> 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 रूपए.
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;
(ख)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच हज़ार 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 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 रूपए.
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees
(घ)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के 10% अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के 10% अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा।
(d)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.
6.	उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील :- अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal-
	(a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or
	(b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.



**ORDER-IN-APPEAL**

The present appeal has been filed by M/s. Agrim Chemtech, Delhi (hereinafter referred to as the "appellant") under Section 128 of the Customs Act, 1962, challenging Order-in-Original No. MCH/ADC/AKM/180/2024-25 dated 28.10.2024 passed by the Additional Commissioner of Customs, Mundra.

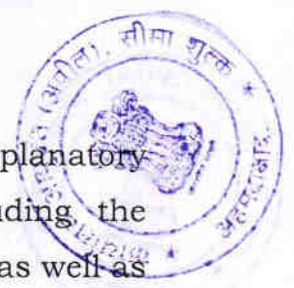
2.1 The facts of the case, in brief, are that the appellant filed Bills of Entry No. 2628051 dated 05.02.2021 and 2755500 dated 13.02.2021 through their Customs Broker for import of goods declared as "Caprylic/Capric Triglycerides," classifying the same under CTH 29159099 of the Customs Tariff Act, 1975. The total assessable value of the imported goods was Rs. 56,74,924/- and the appellant discharged customs duty amounting to Rs. 15,73,940/- at the applicable rate.

2.2 Subsequently, on the basis of an analytics report generated by NCTC indicating possible misclassification of Medium Chain Triglycerides (MCT) under CTH 2915 instead of CTH 151620, it was observed that the goods imported by the appellant were in the nature of Medium Chain Triglycerides (MCT Oil), derived from vegetable oils such as coconut oil or palm kernel oil, and consisting of caprylic (C8) and capric (C10) fatty acids esterified with glycerol.

2.3 It was further observed that such goods are commercially known as MCT Oil and are obtained through re-esterification of fatty acids with glycerol, thereby falling within the scope of "re-esterified fats and oils" covered under CTH 151620, as per the Harmonized System of Nomenclature (HSN) Explanatory Notes. Accordingly, the classification claimed by the appellant under CTH 29159099, which pertains to carboxylic acids and their derivatives, was considered incorrect.

2.4 The department relied upon various sources including HSN Explanatory Notes, international rulings, and judicial pronouncements, including the decision of the Hon'ble CESTAT in the case of M/s. Pioma Chemicals, as well as audit observations of the Comptroller and Auditor General of India, to support the view that Caprylic/Capric Triglycerides (MCT Oil) are classifiable under CTH 15162099 and attract higher rate of Basic Customs Duty.

2.5 In view of the above, it appeared that the appellant had misclassified the



goods with intent to avail lower rate of duty, resulting in short payment of customs duty. Accordingly, differential duty amounting to Rs. 39,53,436/- was worked out based on reclassification of the goods under CTH 15162099.

2.6 A Show Cause Notice was issued proposing rejection of the declared classification, reclassification of the goods under CTH 15162099, recovery of differential duty under Section 28(4) of the Customs Act, 1962 along with applicable interest under Section 28AA, confiscation of the goods under Section 111(m), and imposition of penalty under Section 114A of the Act.

2.7 The adjudicating authority, after due adjudication, passed the impugned order wherein the declared classification under CTH 29159099 was rejected and the goods were reclassified under CTH 15162099. The goods were held liable for confiscation under Section 111(m) of the Customs Act, 1962, with an option for redemption on payment of fine of Rs. 5,00,000/- under Section 125(1). Further, differential duty amounting to Rs. 39,53,436/- was confirmed under Section 28(4) along with applicable interest under Section 28AA, and a penalty equal to the duty amount was imposed 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 impugned order was passed in an arbitrary manner, violating the principles of natural justice because they were not afforded a personal hearing despite making a specific request. Furthermore, the appellant points out a significant procedural error where the order misinformed them of the limitation period for filing an appeal as 90 days, whereas Section 128 of the Customs Act, 1962, prescribes 60 days.

3.2 The appellant argues that the subject Bills of Entry were duly verified, examined, and assessed by the proper Customs officers at the time of import without any discrepancies found. They maintain that an order passed on



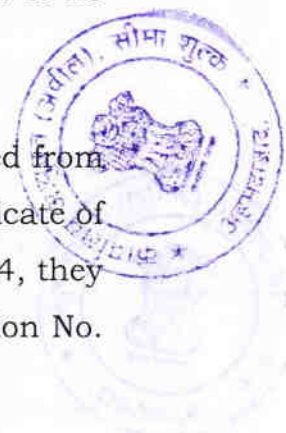
a Bill of Entry constitutes an assessment order that remains valid unless reviewed or modified through a proper appeal. Since the department accepted the declared description and classification at that time, the appellant argues there was no suppression of facts with intent to evade duty.

3.3 The appellant challenges the use of the extended period of limitation under Section 28(4) of the Customs Act, asserting that the Revenue has failed to prove the mandatory elements of collusion, willful misstatement, or suppression of facts. Citing Supreme Court precedents like *Uniworth Textiles Ltd.*, they argue that mere non-payment or a difference in interpretation regarding classification does not equate to a deliberate default or a "negative intention" required to invoke the five-year limitation period.

3.4 The appellant provides a detailed manufacturing process of Caprylic/Capric Triglycerides (CCTG), explaining that it is a compound derived through fractional distillation and esterification rather than the simple chemical transformations (like hydrogenation) covered under Chapter 1516. They argue that the product is an industrial-grade chemical used primarily in the cosmetic industry as an emollient, and therefore, it should be classified under CTH 2915 (as originally declared) or CTH 3824 (Miscellaneous Chemical Products) rather than as a vegetable fat under Chapter 15.

3.5 The appellant asserts that the goods are not liable for confiscation under Section 111(m) because they strictly correspond to the description and value declared in the Bills of Entry. They argue that a dispute over the legal interpretation of classification is not a misdeclaration of facts. Consequently, they contend that penalties under Section 114A are unjustified as there is no evidence of *mens rea* or a dishonest intention to evade tax.

3.6 The appellant further highlights that the goods were imported from Malaysia, an ASEAN member country, and were accompanied by a Certificate of Origin. They argue that if the goods are rightly classified under CTH 3824, they would attract a "NIL" rate of Basic Customs Duty (BCD) under Notification No. 46/2011-CUS, meaning no differential duty liability actually exists.



**PERSONAL HEARING:**

4. Personal hearing was granted to the Appellant on 17.12.2025 following the principles of natural justice wherein Shri Harish Kohli, Advocate appeared for the hearing 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.

5.1 Adjudication is essentially a quasi-judicial function, and it is a settled principle that the "right to be heard" encompasses the right to have one's evidence and submissions considered. On a detailed perusal of the impugned Order-in-Original (OIO), I find that the Adjudicating Authority has focused extensively on the interim replies dated 17.04.2023 and 10.05.2023, while maintaining a conspicuous silence regarding the Appellant's Final Detailed Submission.

5.2 The Appellant's final submission provided a scientific breakdown of the manufacturing process, arguing that fractional distillation and the subsequent esterification of isolated fatty acids (C8/C10) take the product out of the scope of Chapter 15 and into the realm of chemically defined organic compounds under Chapter 29. By failing to address this core technical defense, the Adjudicating Authority has engaged in "selective appreciation of evidence." An adjudicating authority cannot pick and choose which part of a reply to acknowledge and which to ignore. This omission is particularly critical in classification disputes where technical nuances of manufacturing are the primary determinants of the tax rate. The failure to rebut or even acknowledge the expert's findings results in a procedural gap that fundamentally vitiates the fairness of the adjudication.

5.3 The requirement of recording reasons in a quasi-judicial order is not a mere formality but a safeguard against the arbitrary exercise of power. The Hon'ble Supreme Court in *Kranti Associates (P) Ltd. v. Masood Ahmed Khan* 2010 (273) ELT 345 (SC) categorically held that "reasons are the heartbeat of every conclusion." Reasons facilitate transparency, ensure that the authority has



applied its mind to the relevant facts and law, and allow the affected party to understand the basis of the decision.

5.4 In the present case, the Adjudicating Authority has passed what is legally termed a "non-speaking order" regarding the Appellant's final submission. A non-speaking order is one that records a conclusion without disclosing the rational nexus between the evidence and the finding. By ignoring the technical arguments concerning the "fractional distillation" process and the "expert opinion" submitted by the Appellant, the OIO has failed to provide a reasoned rebuttal to the Appellant's most significant defense. This lack of reasoning makes the order functionally unreviewable on its merits, as the Appellate Authority is left to guess the grounds on which the Adjudicating Authority dismissed the scientific evidence. Justice must not only be done but must also be seen to be done through a clear, reasoned, and speaking order that deals with every major point of contention raised by the noticee.

5.5 Section 122A of the Customs Act, 1962, provides the statutory framework for the adjudication process, specifically mandating that the adjudicating authority shall give an opportunity of being heard to a party in a proceeding. It is a fundamental tenet of Indian Administrative Law that a statutory "right to be heard" is not satisfied by a mere mechanical grant of an audience; it demands a substantive engagement with the noticee's case. The Apex Court and various High Courts have repeatedly emphasized that the opportunity of being heard under Section 122A must be "effective" and "real," rather than "illusory" or a "shadowy formality."

5.6 In the context of complex technical disputes such as the classification of chemicals, the "hearing" encompasses the authority's duty to evaluate the written pleadings, the documentary evidence, and the expert testimonies presented. By consciously or inadvertently ignoring the Appellant's Third and Final Submission, the Adjudicating Authority has effectively silenced the Appellant on the most refined version of their defense. The interim replies dated 17.04.2023 and 10.05.2023 were filed at a stage when the technical parameters were still under examination; the final submission, which incorporated the Expert Opinion of Dr. V. P. Malhotra, was intended to be the definitive rebuttal to the Show Cause Notice. To adjudicate the matter based on preliminary responses while disregarding the final, well-documented evidence is a direct contravention of the legislative intent behind Section 122A.

5.7 Furthermore, the failure to consider the final reply violates the principle of Audi Alteram Partem because the Adjudicating Authority has arrived at a decision without "hearing" the actual defense of the party. If an authority receives a reply and yet proceeds as if no such reply exists—or refers only to outdated fragments of the defense—the resulting order becomes procedurally infirm. Any order passed in neglect of such material is liable to be struck down as being in violation of Section 122A. In this case, the non-consideration of the final submission and the expert opinion has rendered the entire adjudication process a one-sided exercise, failing the test of a fair hearing as mandated by the Customs Act.

5.8 In light of the detailed analysis of the procedural infirmities identified in the adjudication process, it is evident that the impugned order is unsustainable in its current form. The failure to consider the Appellant's third and final submission, which contained critical technical data and an expert opinion, represents a substantial breakdown in the quasi-judicial duty of the Adjudicating Authority. Such an omission not only violates the statutory mandate of Section 122A but also contradicts the fundamental principles of administrative law that require every decision to be "informed" and "reasoned." By bypassing the primary defense of the Appellant, the original authority has created a situation where the core of the dispute—the scientific classification of the imported goods—remains unaddressed. Consequently, to uphold the integrity of the law and ensure that the Appellant is afforded a fair and comprehensive adjudication, the matter must be remitted for a de novo consideration. This remand is not merely a procedural redirection but a necessary step to rectify a jurisdictional error that has rendered the original findings a legal nullity. The Adjudicating Authority must now engage with the full spectrum of evidence provided, ensuring that the final order is a true reflection of a balanced and thorough inquiry.

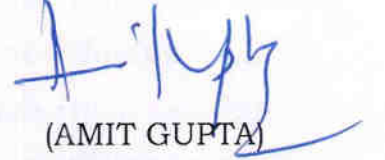
In light of the above findings, I pass the following order:

- i. The impugned Order-in-Original No. MCH/ADC/AKM/180/2024-25 dated 28.10.2024 is hereby set aside on the grounds of violation of the principles of natural justice.
- ii. The matter is remanded back to the Adjudicating Authority for fresh adjudication (de novo).
- iii. The Adjudicating Authority is directed to:
  - a. Specifically consider the Final Written Submission.



- b. Grant a fresh opportunity for a personal hearing to the Appellant.
- d. Pass a speaking and reasoned order on all issues including classification, valuation, and limitation.

7. The appeal is accordingly allowed by way of remand.



(AMIT GUPTA)

Commissioner (Appeals),  
Customs, Ahmedabad

F. No. S/49-315/CUS/MUN/24-25

Date: 30.03.2026

By Speed post A.D/E-Mail

To,  
M/s Agrim Chemtech,  
C-11/14, Sector-3,  
Rohini, Delhi



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.