



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 रोड Ishwar Bhuvan Road

नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009

दूरभाष क्रमांक Tel. No. 079-26589281

DIN – 20250671MN00003353A0

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| क | फ़ाइल संख्या FILE NO. | S/49-60/CUS/AHD/2024-25 |
| ख | अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962) : | AHD-CUSTM-000-APP-076-25-26 |
| ग | पारितकर्ता PASSED BY | Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad |
| घ | दिनांक DATE | 16.06.2025 |
| ङ | उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO. | AHM-CUSTM-AC-1011-DBK-23-24, dated 21.03.2024 |
| च | अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON: | 16.06.2025 |
| छ | अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT: | M/s. Intas Pharmaceuticals Limited, Plot No. 457, 458, 189, 190 & 191, Village – Matoda, Taluka – Sanand, Ahmedabad |



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| 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 imported on baggage |
| (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/- (रुपए दो सौ मात्र) या रु. 1000/- (रुपए 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 |



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| | 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 : | | | | |
| | <table border="1"> <tr> <td>सीमाशुल्क, केंद्रीय 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, केंद्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ | Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench | दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016 | 2 nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016 |
| सीमाशुल्क, केंद्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ | Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench | | | | |
| दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016 | 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 जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रुपए या उससे कम हो तो एक हजार रुपए. | | | | |
| (a) | where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees; | | | | |
| (ख) | अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रुपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पाँच हजार रुपए | | | | |
| (b) | where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ; | | | | |
| (ग) | अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रुपए से अधिक हो तो; दस हजार रुपए. | | | | |
| (c) | where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees | | | | |
| (घ) | इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के %10 अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में हैं, या दंड के %10 अदा करने पर, जहां केवल दंड विवाद में हैं, 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. Intas Pharmaceuticals Limited, Plot No. 457, 458, 189, 190 & 191, Village – Matoda, Taluka – Sanand, Ahmedabad (hereinafter referred to as 'the Appellant') have filed the present appeal challenging the Order – In – Original No. AHM-CUSTOM-AC-1011-DBK/23-24, dated 21.03.2024 (hereinafter referred to as 'the impugned orders'), passed by the Assistant Commissioner (Tech.), Customs, Customs House, Ahmedabad (hereinafter referred to as 'the adjudicating authority')

2. Facts of the case, in brief, are that the Appellant are engaged in the manufacturing of pharmaceuticals products and had filed applications to claim the Duty Drawback (under Section 74 of the Customs Act, 1962) of Customs Duty and SWS paid by them for the imported goods that were further exported / supplied to their SEZ unit located at M/s. Intas Pharmaceuticals Ltd. (SEZ Unit), Plot No. 5 to 14, Zydus Pharmez, Near Village Matoda, Sarkhej – Bavla National Highway, Tal - Sanand, Ahmedabad (hereinafter referred to as 'SEZ Unit').

2.1 Show Cause Notices were issued to the Appellant asking them as to why the claim of Duty Drawback should not be rejected under Section 74 of the Customs Act, 1962 read with Rule 2 (b) of Re-export of Imported Goods (Drawback of Customs duties) Rules, 1995. Whereas, as per definition of 'export' under Rule (b) of the Re-export Drawback Rules, 1995, the goods supplied to SEZ unit from DTA unit is not covered under exports for the purpose of Drawback under Section 74 of the Customs Act, 1962. The details of Show Cause Notices is detailed as under:-

Table – I

| Sr. No. | Show Cause Notice No. and Date | Bill of Export and Date | Brand Rate claimed (In Rs.) |
|---------|---|---------------------------|-----------------------------|
| 1 | VIII/20-475/Cus/DBK/22-23, dated 03.08.2023 | 5000613, dated 19.11.2022 | 275419 |
| 2 | VIII/20-476/Cus/DBK/22-23, dated 03.08.2023 | 5000611, dated 18.11.2022 | 71997 |
| 3 | VIII/20-01/Cus/DBK/22-23, dated 03.08.2023 | 5000011, dated 11.01.2023 | 51000 |
| 4 | VIII/20-12/Cus/DBK/22-23, dated 03.08.2023 | 5000030, dated 24.01.2023 | 32758 |
| 5 | VIII/20-13/Cus/DBK/22-23, dated 03.08.2023 | 5000032, dated 25.01.2023 | 47254 |
| 6 | VIII/20-23/Cus/DBK/22-23, dated 03.08.2023 | 5000060, dated 09.02.2023 | 65314 |
| 7 | VIII/20-108/Cus/DBK/22-23, dated 03.08.2023 | 5000168, dated 12.04.2023 | 101446 |
| | | TOTAL | 6,45,215/- |

2.2 The adjudicating authority after duly considering the submissions and contentions raised by the Appellant, rejected the seven (07) Drawback claims filed by them vide the impugned order.

3. Being aggrieved with the impugned order passed by the adjudicating authority, the Appellant have filed the present appeal. They have, inter-alia, raised various contentions and filed detailed submissions on following points in support of their claims:



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- The adjudicating authority has not considered submissions made by them and rejected the Drawback claim solely placing reliance on Section 74 of the Customs Act, 1962 read with Re-export of imported Goods (Drawback of Customs Duties) Rules, 1995;
- The issue for consideration is whether duty drawback is admissible in terms of Section 74 of the Customs Act, 1962, for goods exported by DTA unit to SEZ unit;
- The material imported at their manufacturing plant located in DTA on payment of duty; some quantity of the same product was re-exported to their SEZ unit; duty was paid at the time of import and drawback was claimed on the said amount under Section 74 of the Customs Act, 1962;
- The adjudicating authority in his findings has held that supplies to SEZ are exempted from duties and taxes and supplies to SEZ have been declared as zero-rated supplies and therefore they were not required to pay the said duties. Such findings are factually incorrect. They have not paid duty on zero-rated supplies and the drawback is not related to such payment;
- Referring to the definition of 'Export' under Rule 2 (b) of the Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995, it is submitted that the adjudicating authority has tried to read the rule in isolation and arrived at an erroneous conclusion;
- The issue under consideration needs to be read harmoniously with other provisions and merely reading a sentence from a rule cannot give proper interpretation of law, in other words, both 'colour' and 'context' of law is to be understood rather than mechanically reading the same by giving a different interpretation of law;
- That the adjudicating authority failed to appreciate that Section 74 of the Customs Act, 1962 provides for drawback of duties paid at time of importation when the imported goods are re-exported;
- As per Rule – 24 (1) & (2) of the SEZ Rules, 2006, the triplicate copy of assessed Bill of Export or similar equivalent document as in case of export specified under Goods and Service Tax laws shall be treated as the drawback claim and shall be processed in the Customs Section of the Special Economic Zone and the Specified Officer shall be the disbursing authority for such claims. Further the Specified Officer shall follow the Customs and Central Excise Duties Draw back Rules, 2017 as amended from time to time. In case the Unit or the Developer does not intend to claim such benefit, a disclaimer to this effect shall be given to the Domestic Area Supplier for claiming such benefits;
- CBEC has issued following circulars regarding admissibility of duty drawback to the supplies effected by DTA units to Special Economic Zones :

- i) Circular No. 24/2003-Cus, dated 01.04.2003
- ii) Circular No. 6/2005-Cus, dated 03.02.2005
- iii) Circular No. 39-2010-Cus, dated 15.10.2010



- Referring to the Section 74 of the Customs Act, 1962, it is submitted that it is not the intention of the Government to deny Drawback to goods exported to SEZ under Section 74;
- As per the Rule 2 (c) of the Customs and Central Excise Duties Drawback Rules, 2017, 'Export' means taking out of India to a place outside India or taking out from a place in Domestic Tariff Area (DTA) to a special Economic Zone. Further, Rule 24 (2) of SEZ Rules, 2006, permits DTA supplier to claim Drawback. Therefore, the definition of 'Export' under Rule 2 (b) of the Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995 is to be understood as per Rule – 2(c) of Customs and Central Excise Duties Drawback Rules, 2017;
- Section 51 of the SEZ Act does not make provision for an overriding effect over other laws. The language employed in the said statute expressly stipulates that the overriding effect would come into play only in case where there is inconsistency contain in any other law. Therefore it is submitted that Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995, cannot override SEZ Act and SEZ Act will prevail over the said rule;
- As per the Section 53 of the Special Economic Zones Act, 2005, a Special Economic Zone shall be deemed to be a territory outside the Customs territory of India. The adjudicating authority brushed aside the applicability of Section 53 on erroneous findings;
- Harmonious reading of all the provision will give an answer and view cannot be taken only on the basis of Rule 2 (b) of Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995 and all the other provisions referred above are to be read together as they are also equally applicable to issue involved;
- Another point for consideration is that non-payment of drawback amount related to payment of Customs Duty plus Social Welfare Surcharge, on imported goods, amount to charging Customs Duty plus Social Welfare Surcharge on export of goods. It is not the intention of the Government to recover taxes on Export of Goods;
- They place reliance on judgment of Hon'ble CESTAT, Mumbai, in case of BJ Services Company Middle East Ltd. [2013-TIOL-637-CESTAT-MUM] where it was held that supply of goods by Appellant to SEZ unit shall be considered as 'export';

4. Personal hearing in the matter was scheduled on 21.05.2025. However, the Appellant vide their letter dated 19.05.2025 has submitted that they waive the personal hearing in the matter and has requested to decide the appeal based on the written submissions made in the aforesaid appeal.

5. I have carefully gone through the impugned order, appeal memorandum in filed by the Appellant. The issue to be decided in the present appeal is whether the impugned order passed by the adjudicating authority rejecting the duty drawback claims

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filed by the Appellant under Section 74 of the Customs Act, 1962, in the facts and circumstances of the case, are legal and proper or otherwise.

5.1 Being aggrieved, the Appellant has filed the present appeal on 17.05.2024. The date of communication of the Order-In-Original dated 21.03.2024 has been shown as 09.04.2024. Therefore, the appeal has been filed within normal period of 60 days, as stipulated under Section 128 (1) of the Customs Act, 1962. Further, the appeal has been filed against the rejection of Drawback claim, hence, the pre-deposit under the provisions of 129 E of the Customs Act, 1962 is not required. As the appeal has been filed within the stipulated time-limit and complies with the requirement of Section 129E of the Customs Act, 1962, the appeal has been admitted and being taken up for disposal on merits.

6. It is relevant to refer to the definitions of 'Export' as provided under the Customs Act, 1962, the SEZ Act, 2005 and relevant Rules. The same are reproduced below:

Definition of 'Export' under Section 2 (18) of the Customs Act, 1962

(18) "export", with its grammatical variations and cognate expressions, means taking out of India to a place outside India;

Definition of 'Export' under Section 2 (m) of the SEZ Act, 2005

(m) "Export" means-

- (i) taking goods, or providing services, out of India from a Special Economic Zone, by land, sea or air or by any other mode, whether physical or otherwise; or
- (ii) supplying goods, or providing services, from the Domestic Tariff Area to a Unit or Developer; or
- (iii) supplying goods, or providing services, from one Unit to another Unit or Developer, in the same or different Special Economic Zone;

Definition of 'Export' under Rule 2 (b) Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995 issued in exercise of powers conferred by Section 74 of the Customs Act, 1962.

(b) "export", with its grammatical variations and cognate expressions means taking out of India to a place outside India and includes loading of provisions or store or equipment for use on board a vessel or aircraft proceeding to a foreign port or airport.

Definition of 'Export' under Rule 2 (c) the Customs and Central Excise Duties Drawback Rules, 1995 issued in exercise of powers conferred by Section 75 of the Customs Act, 1962 (definition prior to amendment)

(c) "export", with its grammatical variations and cognate expressions, means taking out of India to a place outside India and



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includes loading of provisions or store or equipment for use on board a vessel or aircraft proceeding to a foreign port;

Definition of 'Export' under Rule 2 (c) the Customs and Central Excise Duties Drawback (Amendment) Rules, 2003 issued in exercise of powers conferred by Section 75 of the Customs Act, 1962

(c) *"export", with its grammatical variations and cognate expressions, means taking out of India to a place outside India or taking out from a place in Domestic Tariff Area (DTA) to a special economic zone and includes loading of provisions or store or equipment for use on board a vessel or aircraft proceeding to a foreign port;*

Definition of 'Export' under Rule 2 (c) of Customs and Central Excise Duties Drawback Rules, 2017 issued in exercise of powers conferred by Section 75 of the Customs Act, 1962

(c) "export", with its grammatical variations and cognate expressions, means taking out of India to a place outside India or taking out from a place in Domestic Tariff Area (DTA) to a special economic zone and includes loading of provisions or store or equipment for use on board a vessel or aircraft proceeding to a foreign port;

6.1 On perusal of the above definitions, it transpires that the definition of 'Export' is differently worded in different Act and Rules, to achieve different objective and purpose.

6.2 On perusal of the definition of 'Export' under Rule 2 (b) of the Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995, and definition of 'Export' under Rule – 2 (c) of the Customs and Central Excise Duties Drawback Rules, 1995, which deals with drawback on imported materials and excisable material used in the manufacture of goods which are exported, I find that initially the definition of 'Export' was identically worded. Subsequently, the definition of the 'Export' was amended vide the Customs and Central Excise Duties Drawback (Amendment) Rules, 2003, inserting the words **"taking out from a place in Domestic Tariff Area (DTA) to a special economic zone"**. However, similar changes were not introduced in the definition of 'Export' under Rule – 2 (b) of the Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995 and the same remained unchanged. Even though the definition of 'Drawback' was amended vide the Re-export of Imported Goods (Drawback of Customs Duties) Amendment Rules, 2017, the definition of 'Export' remained unchanged. The Customs and Central Excise Duties Drawback Rules, 1995 were rescinded and the Customs and Central Excise Duties Drawback Rules, 2017 were introduced in exercise of powers conferred by Section 75 of the Customs Act, 1962, which deals with drawback on imported materials used in the manufacture of goods which are exported, however, the definition of the term 'Export' remained unchanged.



6.3 It is also relevant to refer to the Rule 24 of the SEZ Rules, 2006. The same is reproduced below for ready reference:

"RULE 24. (1) The procedure for grant of drawback claims to a Developer or Unit shall be as under :

(a) **Drawback Claims :** The triplicate copy of the assessed Bill of Export or a similar equivalent document as in case of export specified under Goods and Services Tax laws, shall be treated as the drawback claim and processed in the Customs section of the Special Economic Zone and the Specified Officer shall be the disbursing authority for the said claims :

Provided that the Specified Officer shall follow the Customs and Central Excise Duties Drawback Rules, 2017, as amended from time to time, circulars and instructions made in this regard to sanction of duty drawback claims and the interest on delayed payments.

(2) Where a Bill of Export has been filed under a claim of drawback or any other similar scheme laid down under the Customs and Central Excise Duties Drawback Rules, 2017, as amended from time to time, the Unit or Developer shall claim the same from the Specified Officer and in case the Unit or Developer does not intend to claim such benefit, a disclaimer to this effect shall be given to the Domestic Tariff Area supplier for claiming such benefits :

Provided that the aforesaid benefits may be claimed by Domestic Tariff Area supplier from their jurisdictional Goods and Services Tax or Central Excise Commissioner, as the case may be.

(3) Drawback or any other similar benefit under the Customs and Central Excise Duties Drawback Rules, 2017, as amended from time to time, against supply of goods by Domestic Tariff Area supplier shall be admissible where payments for the supply are made from the Foreign Currency Account of the Unit :

Provided that the reimbursement of duty in lieu of drawback or any other similar benefit scheme against supply of goods by Domestic Tariff Area supplier to Special Economic Zone developers shall be admissible even if payment is made in Indian Rupees and reimbursement of duty in lieu of drawback or any other similar benefit against supply of goods to Special Economic Zone developer shall be made as per the procedure specified by the Central Government under the Customs and Central Excise Duties Drawback Rules, 2017, as amended from time to time.

Provided further that in case of supplies from Domestic Tariff Area to foreign suppliers in Free Trade and Warehousing Zone, the drawback or any other similar benefit Scheme shall be admissible where the payments are made in foreign currency by the foreign supplier to Domestic Tariff Area subject to sub-rule (5) of rule 18 of the said rules."



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6.4 On perusal of the text of the Rule as reproduced above, it is observed that it refers to only the Customs and Central Excise Duties Drawback Rules, 2017. These Rules have been issued in exercise of powers conferred under Section 75 of the Customs Act, 1962, which deals with drawback on imported materials and excisable material used in the manufacture of goods which are exported. The said Rule does not speak about or refers the Section 74 of the Customs Act, 1962 or to Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995 issued in exercise of powers conferred under Section 74 of the Customs Act, 1962 which deals with duty drawback on re-export of duty paid goods.

6.5 Therefore, I am of the considered view that Rule 24 of the SEZ Rules, 2006 and the Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995, are in perfect alignment and consonance with each other, as Rule 24 of the SEZ Rules, 2006 and the definition of 'Export' under Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995, excludes the re-export of the goods to SEZ.

6.6 From the above observations, I am of the considered view that by amending the definition of 'Export' under Rule 2 (c) of the Customs and Central Excise Duties Drawback Rules, 1995, the benefit of drawback of duties has been extended to the goods manufactured by Domestic Tariff Area (DTA) units and supplied to the special economic zone / unit located in special economic zone, with specific objective and purpose. However, by not amending the definition of the 'Export' in the Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995 issued under Section 74 of the Customs Act, 1962, the benefit of scheme allowing drawback of duties has not been extended to the goods imported on payment of duty and thereafter supplied to the special economic zone as re-export of goods. The view is further fortified / strengthened from the wordings of Rule 24 of the SEZ Rules, 2006, as the said Rule also does not refer to the Section 74 of the Customs Act, 1962 or to Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995. Hence, I am of the view considered view that the beneficial piece of legislation extending benefit of drawback of duties on export of goods has not been extended to the re-export of goods when supplied to Special Economic Zones.

6.7 Considering the facts of the present case, I find that the facts are not disputed that the Appellant had imported various materials for utilization in the manufacturing unit located in Domestic Tariff Area (DTA). Out of the total quantities of the materials / goods imported, the Appellant had supplied part quantity of materials / goods to their SEZ unit. The Appellant filed drawback application under Section 74 of the Customs Act, 1962, considering the goods supplied to their SEZ unit as re-export of goods.

6.8 In light of the facts of the case, I am of the considered view that neither Rule 24 of the SEZ Rules, 2006, nor definition of 'Export' given under Rule – 2 (b) of the



Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995, supports the claims of the Appellant. Further, on combined reading of the Rule 24 of the SEZ Rules, 2006, and definition of 'Export' given under Rule – 2 (b) of the Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995, in my considered view it is the Governments policy decision with specific objective and purpose, restricting the benefit of duty drawback only to the goods manufactured in Domestic Tariff Area and supplied to the special economic zone and excluding the goods re-exported to SEZ unit from the purview of duty drawback under Section 74 of the Customs Act, 1962. Accordingly, I am of the considered view that the benefit of duty drawback is not admissible to Appellant on the imported materials / goods supplied to the unit located in special economic zone and agree with the observation and orders of the adjudicating authority on the issue.

6.9 It is also contended that the issue under consideration needs to be read harmoniously with other provisions and merely reading a sentence from a rule cannot give proper interpretation of law. In other words, both 'colour' and 'context' of law is to be understood rather than mechanically reading the same by giving a different interpretation.

6.10 Considering the submissions of the Appellant, I find that it is not under dispute that supply of the goods to the unit located in special economic zone amounts of export of goods as per definition of export under SEZ Act. However, the question arises whether the benefit of duty drawback is permissible when goods imported on payment of applicable duties are supplied to the unit located in special economic zone. On this issue, I have already expressed my views above in light of the definition of 'Export' given under Rule – 2 (b) of the Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995 and Rule 24 of the SEZ Rules, 2006. Further, when the transaction is undisputedly covered under Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995 in the present case, the definition of 'Export' provided under the Customs and Central Excise Duties Drawback Rules, 2017, cannot be applied ignoring the definition of 'Export' as provided under Re-export of imported goods (Drawback of Customs Duties) Rules, 1995. Hence, the contention of the Appellant is not sustainable and the same is accordingly rejected.

6.11 Referring to Section 51 of the SEZ Act, 2005, it is contended that where there is inconsistency contained in any law, the SEZ Act has overriding effect and the Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995, cannot override the SEZ Act. It is already held above that the Rule 24 of the SEZ Rules, 2006 and the Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995 are in perfect alignment and consonance and there is no inconsistency. Therefore, the question of overriding effect does not arise. Even otherwise, the Appellant have filed application for duty drawback under Section 74 of the Customs Act, 1962, i.e., the Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995, and not under



the SEZ Act. Therefore, I am of the considered view that while ascertaining the admissibility of drawback claims, the definition of 'Export' as provided under the relevant Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995, will prevail. In this regards, I rely upon the judgment of Hon'ble larger Bench of Supreme Court in case of Universal Ferro & Allied Chemical Ltd. [2020 (372) E.L.T. 14 (S.C.)], wherein, it was held that :

"22. This Court has held, that it is a settled principle in Excise classification that the definition of one statute having a different object, purpose and scheme cannot be applied mechanically to another statute. It has further been held, that the conditions or restrictions contemplated by one statute having a different object and purpose should not be lightly and mechanically imported and applied to a fiscal statute."

6.11.1 I further find that the Hon'ble CESTAT, Bangalore in case of MMTC Ltd. [2016 (341) E.L.T. 225 (Tri.-Bang.)] held as under:

"29. The adjudicating authority has not considered the manufacture definition as appearing in the policy and after ignoring the same, has adopted the definition of manufacture as appearing in the Central Excise Act. It is again well settled proposition of law that when the definition of any expression is appearing in the Act, which is the subject matter of dispute, no reference can be made to any other Act so as to adopt the definition appearing in that Act. If the definition is not available in a particular Act which is under consideration, then only the definition available in the Acts which are closely related to the arena of dispute, can be referred to. This proposition again does not need the strength of any decisions as the same is settled by catena of judgments of various judicial as also quasi-judicial authorities."

6.12 The ratio of the above judgments is applicable in the present case in as much as when the definition of 'Export' is specifically given in the Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995, governing the subject matter of the present case, no reference can be made to definitions provided under the SEZ Act, 2005 or the Customs and Central Excise Duties Drawback Rules, 2017.

6.13 Considering the facts of the present case in light of the aforementioned observations of the Hon'ble Supreme Court and Tribunal, the fact is not disputed that the Appellant had filed applications for drawback of duties under Section 74 of the Customs Act, 1962. The Central Government, in exercise of the powers conferred by Section 74 of the Customs Act, 1962, had notified the Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995, wherein, the definitions, procedure etc. have been prescribed. The Central Government has specifically provided the definition of 'Export', wherein the goods supplied to Special Economic Zone have been excluded from the definition. Hence, the arguments advanced by the Appellant are legally not sustainable. Accordingly, I reject the same.



6.14 The Appellant has further contended that the adjudicating authority has brushed aside the applicability of Section 53 of the SEZ Act, 2005. On perusal of Section 53, it is observed that the SEZ shall be deemed to be a territory outside the customs territory of India for the purposes of undertaking the authorized operations. Whereas, the definition of 'Export' under Re-export of Imported Goods (Drawback of Customs Duties) Rules, 1995 issued under Section 74 of the Customs Act, 1962, uses the words 'taking out of India to a place outside India'. On perusal of the impugned order, it is observed that the adjudicating has dealt with the contentions raised by the Appellant and I agree with the observations of the adjudicating authority and accordingly the contentions of the Appellant is rejected.

6.15 The Appellant have further contended that the adjudicating authority had not considered submissions made by them and rejected the drawback claim solely placing reliance on Section 74 of the Customs Act, 1962 read with Re-export of imported Goods (Drawback of Customs Duties) Rules, 1995. However, they have not pointed out any specific contention which has not been dealt with / considered by the adjudicating authority. On perusal of the impugned order, it is observed that the adjudicating authority has dealt in detail with all the contentions raised by the Appellant and has passed well-reasoned order. Therefore, I am of the considered view that the contention raised by the Appellant is legally not sustainable, especially when no specific instance of non consideration of submission is pointed out.

7. Further, I have also gone through the case law relied upon by the Appellant, however, I find that the said case laws is not applicable to the facts and circumstances of the case, inasmuch as in the present case, the Appellant have claimed the drawback under Section 74 of the Customs Act, 1962. In the case of B.J. Science Co. Middle East Ltd relied by the Appellant, it is held that supply of goods by Appellant to SEZ unit shall be considered as 'export'. Hence, the facts of the case in this case is distinguished from the case in hand.

8. In view of the above discussions, I agree with the observations and findings of the impugned order passed by the adjudicating authority and do not find any justification to interfere with the findings and order passed by the adjudicating authority.

8. Accordingly, I uphold the impugned order and reject the appeal filed by the Appellant.

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



F. No. S/49-60/CUS/AHD/2024-25

1481

Amit Gupta

(Amit Gupta)
Commissioner (Appeals),
Customs, Ahmedabad

Date: 16.06.2025

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