



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 - 20251271MN0000000BE2

क	फ़ाइल संख्या FILE NO.	S/49-123/CUS/MUN/2025-26
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128 के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962)	MUN-CUSTM-000-APP-479-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	16.12.2025
ड	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original no. MCH/ADC/AKM/21/2025-26 dated 16.04.2025
च	अपील आदेश जारी करने की दिनांक ORDER-IN-APPEAL ISSUED ON:	16.12.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s Punia Zinox Private Limited, Survey No. 179/2, Bhuj Bachau Road, Dhaneti, Bhuj-Kutch-370020.

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 व्याज, 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>	
	<p>सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ</p> <p>दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016</p>	<p>Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench</p> <p>2nd Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016</p>
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 रुपए.</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; पाँच हजार रुपए</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 रुपए.</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>(d) 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 ।</p>	
	<p>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 Punia Zinox Private Limited, Survey No. 179/2, Bhuj Bachau Road, Dhaneti, Bhuj-Kutch-370020 (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original nos. MCH/ADC/AKM/21/2025-26 dated 16.04.2025 (hereinafter referred to as 'the impugned order') issued by the Additional Commissioner, Customs, Mundra.

2. Facts of the case, in brief, are that the Appellant had filed Bills of Entry No.8730983 dated 18.05.2022 and 8731709 dated 18.05.2022 along with relevant documents viz, Invoices, COO, Bank Guarantee etc., claiming FTA based duty exemption vide Notification No.99/2011-Customs, for import of "Zinc Dross" under SAFTA scheme on the basis of Certificate of Origin said to be issued by the Director, Export Promotion Bureau, Chattogram, Bangladesh. The details of import are as under:

Sr. No.	BE No.	Date	Item	Assessable value	Duty Paid	COO No	COO date.
1	8730983	18.05.2022	Zinc Dross	12318786	2217382	EPB(C)4256	12.05.2022
2	8731709	18.05.2022	Zinc Dross	12790212	2302238	EPB(C)4309	15.05.2022
				25108998	4519620		

2.1 The said imported goods were purchased on High Sea Sale Agreement by the appellant with Haryana Agro Chemicals (India), 65, Industrial Area, Phase-II, Chandigarh 160002. The TSK Section, Custom House, Mundra vide letter F.No.VIII/48-356/AG/T/Customs 2020-21 -Pt-I dated 01.06.2022, informed that specimen signature on the Certificate of Country of Origin, issued by the Director, Export Promotion Bureau, Chattogram, Bangladesh is found to be mismatch, and accordingly the COO Certificate was forwarded for verification by the Import Assessment Group, Customs House, Mundra to the competent authority for verification under Rule 6(1) of CAROTAR, 2020. Since in the case of both the COOs, the issuing authority, supplier as well as the importer are same, only one COO NO.EPB(C) 4256 dated 12.05.2022 for BE No.873983 dated 18.05.2022 was forwarded for verification in terms of Rule 6(1) of CAROTAR,2020. The FTA Cell vide their

letter F.No.456/41/2022-FTA-Cell-I dated 10.02.2023 has communicated letter reference No.20.02.0000.023.23.48.179.19/1917 dated 24.01.2023 received from Export Promotion Bureau, Bangladesh, wherein it has been informed that SAFTACOO No.EPB(C)4256 dated 12.05.2022 appears to be forged and should be rejected. This being the case as the issuing authority, supplier as well as the importer are same in respect of COO Certificate of both the Bills of Entry No.873983 dated 18.05.2022 and 8731709 dated 18.05.2022, the SAFTA COO No. EPB(C)4309 dated 15.05.2022 also appeared to be forged and should be rejected.

2.2 In this backdrop, referring Notification No.99/2011-Customs dated 09.11.2011, verification report F.No.456/41/2022-FTA-Cell-I dated 10.02.2023, Notification No.81/2020-Customs (NT) dated 21.08.2020, Rule 6(1) of CAROTAR, 2020 and other relevant provisions, a Show Cause Notice was issued to the Appellant as to why:

(i) The FTA based duty exemption claimed under SAFTA Scheme on the basis of COO Certificate in respect of Bill of Entry No.8730983 dated 18.05.2022 and 873709 dated 18.05.2022 for the imported goods "Zinc Dross" should not be rejected in terms of Section 28Da of the Customs Act, 1962 read with Circular No.38/2020-Customs dated 21.08.2020 and CAROTAR Rules, 2020;

(ii) The amount of duty of Rs.16,29,574/- (Sixteen Lakhs Twenty-Nine Thousand and Five Hundred Seventy-four only) short levied on the said imported goods should not be demanded and recovered from the appellant under Section 28(4) of the Customs Act, 1962 read with Section 5 of the Integrated Goods and Service Tax Act, 2017 along with applicable interest at the appropriate rate under Section 28AA of the Customs Act, 1962;

(iii) The goods valued at Rs.2,51,08,998/- (Rupees Two Crores Fifty-one lakhs Eight Thousand, Nine Hundred & Ninety Eight only) should not be confiscated under Section 111(m) & Section 111(o) of the Customs for non-observance of the conditions laid down for exemption from duty;

(iv) The penalty should not be imposed on them under Section 112(a) and/or Section 114A & Section 114AA of the Customs Act, 1962.

2.3 Consequently, the Adjudicating Authority passed the order as under:

- (i) He ordered to reject/deny the FTA based duty exemption claimed under SAFTA Scheme by M/s. Punia Zinox Private Limited on the basis of COO Certificate in respect of Bills of Entry no. 8730983 dated 18.05.2022 and 8731709 dated 18.05.2022 for the imported goods "Zinc Dross" in terms of section 28DA of the Customs Act, 1962 read with Circular No. 38/2020-Customs dated 21.08.2020 and CAROTAR-Rules, 2020;
- (ii) He ordered for confiscation of the impugned goods having total assessable value of Rs.2,51,08,998/- (Rupees Two Crores Fifty-One Lakhs Eight Thousand, Nine Hundred & Ninety-Eight only) imported vide Bills of Entry no. 8730983 dated 18.05.2022 and 8731709 dated 18.05.2022 under Section 111(m) and 111(o) of the Customs Act, 1962. He imposed redemption fine of Rs. 20,00,000/- (Rupees Twenty Lakh only) under Section 125(1) of the Customs Act, 1962, in lieu of confiscation;
- (iii) He ordered to confirm and recover the demand of differential duty of Rs. 16,29,574/- (Sixteen Lakhs Twenty-Nine Thousand and Five hundred seventy-four only) under Section 28(4) of Customs Act, 1962.
- (iv) He confirmed and ordered to recover applicable interest on the differential duty above under Section 28AA of Customs Act, 1962.
- (v) He imposed a penalty of 16,29,574/- (Sixteen Lakhs Twenty-Nine Thousand and Five hundred seventy-four only) on the Importer M/s. Punia Zinox Private Limited under Section 114A of Customs Act, 1962;
- (vi) He imposed a penalty of Rs 2,00,000/- (Rupees Two Lakh only) on the Importer M/s. Punia Zinox Private Limited under Section 114AA of Customs Act, 1962
- (vii) He did not impose penalty under Section 112(a) of the Customs Act, 1962 on the Importer M/s. Punia Zinox Private Limited.

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 adjudicating authority went beyond the scope of the Show Cause Notice (SCN) by making an allegation of "Conspiracy hatched" by the appellant, which was not present in the SCN. The meaning of "conspiracy" is defined as "an agreement between two or more people to commit an illegal act, along with an intent to achieve the agreement's goal". The appellant purchased the goods on a High Sea Sale agreement from Haryana Agro Chemicals (India), who had imported the goods from Bangladesh and provided the Certificate of Country of Origin (COO). There is no evidence in the SCN or on record that the appellant had prior knowledge that the signature on the COO was not authentic, or how they "conspired" in obtaining the unauthentic signature. The adjudicating authority held that a conspiracy was hatched purely on assumption and presumption, which is not permissible under the settled law that an adjudicating authority cannot go beyond the scope of the SCN.

3.2 The finding that the appellant made wrong declarations in the Bill of Entry (BE) for availing undue benefit under the exemption Notification No. 99/2011-Cus. is incorrect. The declaration in the BE was made under a bona fide belief as the COO was supplied by the High Sea Sale seller (Haryana Agro Chemicals). The appellant does not have any mechanism to verify the authenticity of the COO signature; this power rests with the department under the CAROTAR Rules, 2020. The declaration was only proved wrong after the department's verification with the competent authority under Rule 6 of CAROTAR, 2020, two years later, indicating no intentional contravention. The appellant later agreed to the denial of exemption and paid the Customs duty, Interest, and 15% penalty (total Rs. 23,33,416/-) in terms of Section 28(5) of the Customs Act, 1962, seeking conclusion of the proceedings. Therefore, concluding that the appellant intentionally and willfully made the declaration fraudulently is erroneous.

3.3 The request for conclusion of proceedings under Section 28(5) of the Customs Act, 1962, ought to have been considered. The SCN is deemed not to have been issued because the department failed to provide vital and relied-upon documents, specifically the signature verification report from the competent authority, despite a request during the personal hearing on 11.03.2025. If the SCN is deemed not to have been issued, the date of the personal hearing (11.03.2025) should be considered for computing the 30-day period for Section 28(5). Since the appellant made the payment on 02.04.2025, it falls within one

month of 11.03.2025, thus they are eligible for the benefit of Section 28(5). The adjudicating authority incorrectly denied the benefit, stating the payment was made after 30 days of the receipt of the SCN.

3.4 Since the appellant is eligible and sought conclusion of proceedings under Section 28(5), the goods are not liable to confiscation. The imposition of redemption fine is unwarranted. The goods were provisionally released against a Bank Guarantee and taken out of charge on 15.06.2022. The goods were, therefore, not physically available for confiscation. The appellant cited the Supreme Court decision in the case of Principal Commissioner of Customs Vs Flextronics Technologies India Pvt. Ltd and the Bombay High Court's ruling in Commissioner v. Finesse Creation Inc., which held that if goods were cleared and not physically available, redemption fine is not imposable. The adjudicating authority incorrectly relied on the Madras High Court case of Visteon Automotive Systems India Limited, which held that the physical availability of goods is not necessary for imposing a redemption fine.

3.5 The penalty of Rs. 16,29,574/- under Section 114A is not justifiable. As argued, the appellant had no knowledge of the unauthentic signature on the COO, and there was no intention to evade duty. The penalty of Rs. 2,00,000/- under Section 114AA is not sustainable. The finding of "intentional usage of false and incorrect material" or "deliberate and intentional submission of fraudulently obtained forged preferential Certificates of origin" is incorrect, as the appellant was unaware of the authenticity. If the conclusion of proceedings under Section 28(5) is considered, no penalty is imposable upon the appellant.

PERSONAL HEARING:

4. Personal hearing was granted to the Appellant on 10.12.2025, following the principles of natural justice wherein Shri Vijay N Thakkar, Consultant appeared for the hearing in virtual mode. He re-iterated the submissions made at the time of filing the appeal

DISCUSSION AND FINDINGS:

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 On going through the material on record, I find that the following issues need to be addressed:

- (i) Whether the proceedings should be deemed concluded under Section 28(5) of the Customs Act, 1962.
- (ii) Whether Redemption Fine can be imposed when goods are not available and the bond/BG has been discharged prior to SCN.
- (iii) Whether penalties under Section 114A and 114AA are sustainable.

5.2 The core of the Department's case rests entirely on the Verification Report allegedly received from the Export Promotion Bureau, Bangladesh, communicated via the FTA Cell, which purportedly declared the Certificates of Origin (COOs) as forged. It is a fundamental tenet of the principles of natural justice and statutory procedure that any document relied upon in the Show Cause Notice (SCN) to allege fraud or suppression must be supplied to the Noticee to enable an effective defense. In the instant case, the Appellant has categorically submitted that despite a specific request made during the personal hearing on 11.03.2025, the critical "Verification Report" / FTA Cell letter was never supplied to them. This assertion remains unrebutted in the Impugned Order.

5.3 The failure to supply Relied Upon Documents (RUDs) is not merely a procedural lapse but a substantive violation that vitiates the adjudication proceedings. The courts have consistently held that a Show Cause Notice is deemed incomplete if the documents relied upon are not furnished.

5.4 Section 28(5) of the Customs Act, 1962, offers a beneficial window to an importer to conclude proceedings by paying duty, interest, and 15% penalty within "30 days of the receipt of the notice". A strict interpretation of "receipt of notice" presupposes the receipt of a valid and complete notice. As per the ratio laid down in Amrit Foods vs. Commissioner [2005 (190) E.L.T. 433 (S.C.)], though in the context of penalty options, the courts have emphasized that the assessee must be made fully aware of their liabilities and the grounds thereof to exercise their options. An SCN served without the critical RUDs (in this case, the forgery report) is an incomplete notice. The Appellant cannot be expected to accept the

liability or exercise the option to pay reduced penalty under Section 28(5) based on an unsubstantiated allegation without seeing the evidence.

5.5 Since the Department failed to supply the Verification Report even till the date of adjudication, the "Notice" was never effectively "received" in its entirety in the eyes of the law. Therefore, the 30-day limitation period under Section 28(5) did not commence or expire to the detriment of the Appellant. The Appellant voluntarily paid the entire liability—Duty, Interest, and the reduced 15% Penalty—on 02.04.2025. The Department cannot be permitted to take advantage of its own wrong (non-supply of documents) to deny a statutory benefit to the taxpayer. Given that the Department failed to perfect the service of notice by supplying RUDs, the payment made by the Appellant on 02.04.2025 must be treated as compliance within the statutory spirit of Section 28(5). To deny the conclusion of proceedings on a technical calculation of days, when the Department itself breached the principles of natural justice, would be unjust and legally untenable. Therefore, I hold that the proceedings are deemed concluded under Section 28(5) of the Customs Act, 1962. The Appellant's payment of duty, interest, and 15% penalty is accepted as full and final settlement of the liability arising from the Show Cause Notice, precluding any further penal action or confiscation in this regard.

5.6 The Adjudicating Authority imposed a Redemption Fine of Rs. 20,00,000/-, relying on the decision in Visteon Automotive Systems India Ltd. [2018 (9) G.S.T.L. 142 (Mad.)] and Synergy Fertichem [2020 (33) G.S.T.L. 513 (Guj.)]. However, the facts of the instant case are distinct and crucial. In the cited cases, the goods were usually released provisionally against a bond that was subsisting at the time of adjudication. In the present case, it is an undisputed fact that the Department released the Bank Guarantee and finalized the assessment on 28.04.2023 (prior to the issuance of the SCN on 20.06.2024). Once the Department releases the security and discharges the bond, the nexus between the goods and the bond is severed. The Hon'ble Supreme Court in Weston Components Ltd. vs. Commissioner [2000 (115) E.L.T. 278 (S.C.)] held that redemption fine is imposable if goods are released on bond binding the importer to produce the goods. Since the bond/BG was discharged by the Department itself on 28.04.2023, the condition of Weston Components is not satisfied.

5.7 I rely on the judgment of the Hon'ble Bombay High Court in Commissioner of Customs vs. Finesse Creation Inc. [2009 (248) E.L.T. 122



(Bom.)], upheld by the Supreme Court, which held that if goods are cleared and not available for confiscation, redemption fine cannot be imposed. The Adjudicating Authority failed to appreciate that the act of releasing the BG on 28.04.2023 effectively waived the right to enforce the production of goods. Therefore, the imposition of Redemption Fine is legally unsustainable and is set aside.

5.8 Penalty under Section 114AA is imposable only if a person "knowingly or intentionally" uses false documents. The Appellant is a High Sea Buyer. The documents, including the COO, were provided by the High Sea Seller (M/s. Haryana Agro Chemicals). There is no evidence on record to show that the Appellant forged the documents or had prior knowledge of the forgery. The Adjudicating Authority's finding of a "conspiracy" is an assumption without corroborative evidence and travels beyond the scope of the SCN, as rightly argued by the Appellant. In the absence of mens rea or concrete evidence establishing that the Appellant was the author of the forgery or a knowing participant, penalty under Section 114AA cannot be sustained against a bona fide High Sea Buyer who relied on commercial documents provided by the seller. Therefore, the penalty of Rs. 2,00,000/- under Section 114AA is set aside.

5.9 The Appellant has already discharged the duty liability of Rs. 16,29,574/-, along with the applicable interest and a reduced penalty of 15% (Rs. 2,44,436/-), totaling Rs. 23,33,416/-, on 02.04.2025. This payment was made in good faith to buy peace and conclude the proceedings as envisaged under Section 28(5) of the Customs Act, 1962. The imposition of the full penalty equal to duty under Section 114A is contradictory to the statutory benefit of reduced penalty provided for such voluntary compliance. Furthermore, the separate penalty under Section 114AA is unsubstantiated due to the lack of evidence of any intent to falsify documents by the High Sea Buyer. Finally, the Redemption Fine is legally untenable as the goods were not available for confiscation and the bond had been discharged prior to the issuance of the Show Cause Notice. Consequently, the additional demands confirmed in the Impugned Order are set aside, and the proceedings are held to be concluded based on the payments already made.

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

- The appeal filed by M/s. Punia Zinox Private Limited is allowed.

(ii) The proceedings arising out of the Show Cause Notice are held to be concluded in terms of Section 28(5) of the Customs Act, 1962, as the Appellant has paid the Duty, Interest, and 15% Penalty.

(iii) The Order-in-Original imposing Redemption Fine of Rs. 20,00,000/- is set aside.

(iv) The Order-in-Original imposing Penalty of Rs. 16,29,574/- under Section 114A is modified/reduced to the 15% already paid by the Appellant.

(v) The Order-in-Original imposing Penalty of Rs. 2,00,000/- under Section 114AA is set aside.

7. The Appeal is allowed with consequential relief, if any, in accordance with the law.



F. No. S/49-123/CUS/MUN/2025-26

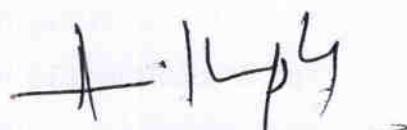
4831

By Speed Post/E-Mail

To,
M/s Punia Zinox Private Limited,
Survey No. 179/2, Bhuj Bachau
Road, Dhaneti, Bhuj-Kutch-370020.

Copy to:

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


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

Date: 16.12.2025

सत्त्वापिता/ATTESTED


अधीक्षक/SUPERINTENDENT
सीमा धुल्का (अपीला), अहमदाबाद.
CUSTOMS (APPEALS), AHMEDABAD