



सीमाशुल्क (अपील) आयुक्तका कार्यालय, अहमदाबाद

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD
चौथी मंज़िल 4th Floor, हडको बिल्डिंग HUDCO Building, ईश्वर भुवन रोड Ishwar Bhuvan Road,
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009.

दूरभाष क्रमांक Tel. No. 079-26589281

DIN-20250771MN000000B049

क	फाइल संख्या FILE NO.	(1) S/49-448/CUS/AHD/2023-24 (2) S/49-449/CUS/AHD/2023-24
ख	अपीलआदेश संख्या ORDER-IN-APPEAL No. (सीमाशुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	AHD-CUSTM-000-APP-143 & 144-25-26
ग	पारितकर्ता PASSED BY	SHRI AMIT GUPTA Commissioner of Customs (Appeals), AHMEDABAD
घ	दिनांक DATE	10.07.2025
ङ	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER - IN - ORIGINAL NO.	Order - In - Original Nos. (1) 05/AC/SRT/Refund/2023 dated 05.01.2024 (2) 04/AC/SRT/Refund/2023 dated 05.01.2024 both passed by the Assistant Commissioner of Customs, Division Surat.
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	10.07.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Reliance Industries Ltd., Village Mora, PO-Bhatha, Hazira Road, Surat.

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 (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 (यथासंशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्षक 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 दोप्रतियां। 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.	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 :				
	<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 मंजिल, 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 मंजिल, 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				
दूसरी मंजिल, 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 रूपए 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 रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पांच 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 रूपए 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 है, अपील रखा जाएगा।
(d)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.
6.	उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal-
	(a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or
	(b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.



ORDER-IN-APPEAL

M/s. Reliance Industries Ltd., Village Mora, PO-Bhatha, Hazira Road, Surat (hereinafter referred to as 'the appellant' or 'the claimant' or 'the noticee') has filed the two appeals against an Order-In-Original Nos. 05/AC/SRT/Refund/2023 dated 05.01.2024 and 04/AC/SRT/Refund/2023 dated 05.01.2024 (hereinafter referred to as 'the impugned orders') both passed by the Assistant Commissioner of Customs, Custom Division Surat (hereinafter referred to as 'the adjudicating authority'). The issues involved in both appeals are similar and so, they are being taken up together for disposal. Particulars of the Appeal No. S/48-448/CUS/AHD/2023-24 against the O.I.O. 05/AC/SRT/Refund/2023 dated 05.01.2024 have been mentioned hereinafter for brevity.

2. Facts of the case, in brief, are that the appellant had filed Bill of Entry No. 5535272 dated 15.04.2023 towards clearance of 36159.050 MT of Full Range Naphtha. The said Bill of Entry was assessed provisionally on 17.04.2023 under Section 18 of Customs Act, 1962 for want of test report and original documents. The noticee had paid the Customs duty against the said Bill of Entry on 17.04.2023 but Customs duty payment was not reflected under Bill of Entry status on ICEGATE from 17.04.2023 to 25.04.2023 due to delayed integration of the newly ECL (Electronic Cash Ledger) System introduced by CBIC vide Circular No. 09/2023-Customs dated 30.03.2023 effecting from 01.04.2023. However, the duty amount of Rs.30,86,02,916/- was appeared/shown in credit of ECL wallet of above period and finally system allowed to pay the Customs duty of Rs.30,86,02,916/- along with interest amount of Rs.8,87,762/- on 25.04.2023 from claimant's ECL wallet. Therefore, the claimant filed subject refund claim on 08.06.2023 for interest paid by them total amounting to Rs.8,87,762/- as per point No. 2 of Customs (Waiver of Interest) Third Order, 2023, Order No. 03/2023-Customs (NT) dated 17.04.2023 issued by the Central Board of Indirect Taxes and Customs. The CBIC has waived the interest payable under Sub-Section (2) of Section 47 of the said Act, for the period from 14th April, 2023 till date of removal of such system inability and thereafter up to three days (including Holidays).

3. During the course of scrutiny of the refund claim, it was noticed that the claimant had not submitted documentary evidence for fulfillment of condition as per Order No. 03/2023-Customs (N.T.) dtd. 17.04.2023 that waives the interest payable under sub section (2) of Section 47 of the Customs Act 1962. Therefore, a Show Cause Notice was issued vide F.No. VIII/20-02/CUS/R/2023 dtd. 06.09.2023 to the claimant. The claimant has filed reply to the SCN and attended the Personal Hearing granted by the adjudicating authority.



Gist of findings of adjudicating authority:

4. In the instant case, the noticee had filed an EDI Bill of Entry No. 5535272 dated 15.04.2023 with Magdalla Port (INMDAI) towards clearance of 36159.050 MT of Full Range Naphtha. The said BoE was assessed provisionally under Section 18 of the Customs Act, 1962 on 17.04.2023 and the noticee had credited Customs duty in their ECL wallet on 17.04.2023 but it is not debited to ICES. As per available documents, the adjudicating authority found that once the payment of duty has been made but the same is not being reflected in ICES, the noticee had not approached the Customs Office for grant of manual Out of Charge (OOC) with a bank certificate/screenshot of bank transaction indicating the payment of duty amount made and also not produced undertaking if duty is found to be not credited to the Government Account. He found that the noticee only submitted documents of e-cash ledger, wherein it shows that Customs duty payment amount of Rs.30,86,02,916/- credited in their e-wallet on 17.04.2024 (sic - 17.04.2023) against the BoE No. 5535272, there is no rejection entry or re-initiated payment entry. Further, he found that only credit entry dated 17.04.2023 and debit entry dated 25.04.2023 is showing in their e-wallet. Therefore, the adjudicating authority observed that the noticee had not submitted any concrete evidence/documents that proved that they have debited customs duty from their e-wallet but due to such system inability same was not credited in Government Account, as well as not submitted any certificate issued by the DG system for removal of such system inability.

5. Further, the noticee submitted a Bank certificate, which says that Customs duty has been paid on 17.04.2023 and as per bank records the said amount has been credited to Government Account vide transaction reference No. 1000775902 dated 17.04.2023. In this regards, the adjudicating authority found that, as per e-cash ledger and BoE tracker systems the same was credited on Government account on 25.04.2023.

6. In view of the above, the adjudicating authority found that the noticee has not submitted concrete documentary evidence to prove that the payment for subject Bill of entry has been initiated in term of para 8.2 of Circular No. 09/2023-Customs dated 30.03.2023 on or before 13.04.2023, as required under Customs (Waiver of Interest) Third Order, 2023 dated 17.04.2023; and also not fulfilling the condition as per Order No. 03/2023-Customs (N.T.) dated 17.04.2023, which provides the waiver of the interest payable under sub section (2) of Section 47 of the Customs Act 1962.

7. In view of the above, the adjudicating authority has rejected the claim for refund of interest of Rs. 8,87,762/- filed by the appellant vide O.I.O. No. 05/AC/SRT/Refund/2023 dated 05.01.2024 (Appeal No. 448/23-24). Similarly, the claim for refund of interest of

Rs.10,73,990/- filed by the appellant has been rejected vide O.I.O. No. 04/AC/SRT/Refund/2023 dated 05.01.2024 (Appeal No. 449/23-24).

Filing of appeal and condonation of delay:

8. Being aggrieved, the appellant has filed the present appeals, both on 19.03.2024. As the appeal has been filed against rejection of claim for refund of interest, pre-deposit under the provisions of Section 129E of the Customs Act, 1962, does not require. In the Form C.A.-1, the date of communication of the both Orders-In-Original dated 05.01.2024 has been shown as 05.01.2024. Thus, both the appeal has been filed on 74th days from the date of communication of impugned orders. Therefore, there is a delay of 14 days in filing appeal beyond the normal period of 60 days, as stipulated under Section 128(1) of the Customs Act, 1962. In both appeals, the appellant has submitted applications dated 18.03.2024 for condonation of delay in filing of appeals. In these applications, it has been mentioned that Mr. Pinakin Desai, Manager Customs of the appellant company, who was coordinating these matters, had proceeded for leave from 01.03.2024 to 15.03.2024 due to some personal issues and the impugned orders were not brought to the notice of other authorized persons. So, there was a delay of 13 days in filing the appeals. The appellant has mentioned the Judgment of Hon'ble Supreme Court in the case of **Collector, Land Acquisition Anantnag and Another vs. Mst. Katiji and Others reported in 1987 (28) ELT 185 (SC)** wherein it has been held that a justifiable liberal approach should be adopted in cases of condonation of delay. In view of the above position, I condone the delay of 14 days in filing both appeals as per the first proviso to Section 128(1) of the Customs Act, 1962, and admit both appeals.

Gist of Grounds of Appeal:

9. The appellant has raised various contentions in the Grounds of Appeal, which are as follows:

9.1 The Assistant Commissioner erred in rejecting the refund application for Rs. 8,87,762/- which was the interest amount the Appellant had to pay as the EDI system allowed the Appellant to pay duty with interest only on 25.04.2023 though the Appellant has initiated the duty payment on 17.04.2023.

9.2 Though the Electronic Cash Ledger was also credited on 17.04.2023 by Rs. 30,86,02,916/-, however due to issues on the portal, neither the said credit Entry was visible to the Appellants nor were they able to debit the said amount.



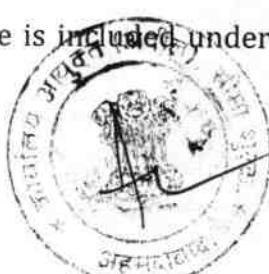
9.3 Duty amount from the Electronic Cash Ledger was debited only on 25.04.2023. In doing so the system also charged an interest of Rs. 8,87,762/- and an amount of Rs. 30,94,90,678/- (inclusive of interest) instead of Rs. 30,86,02,916/- was debited. The importer had paid the customs duty against the above Bill of Entry on 17.04.2023 but custom duty payment was not reflected under Bill of Entry status on ICEGATE from 17.04.2023 to 25.04.2023 due to delayed integration of newly ECL (Electronic Cash Ledger) system introduced by CBIC Circular No. 09/2023-Customs dated 30.03.2023 effecting from 01.04.2023. However, duty amount of Rs. 30,86,02,916/- was appearing in credit of ECL wallet of above period. Finally, system allowed us to pay the custom duty of Rs. 30,86,02,916/-along with interest amount of Rs. 8,87,762/- on 25.04.2023 from our ECL wallet.

9.4 The Assistant Commissioner erred in holding in paragraph 9 of his order that the once the payment of duty has been made but the same was not being reflected in ICES, the noticee had not approached the Customs Office with a bank certificate/screenshot of bank transaction indicating the payment of duty amount made and also not produced undertaking that duty is found to be not credited to the Government Account. The Assistant Commissioner failed to appreciate that once the duty amount was debited from the Bank Account of the Appellant on 17.04.2023 but was not reflected on Icegate, the Appellant by letter dated 19.04.2023 informed the Deputy Commissioner of Customs that:

- (a) they had filed Bill of Entry dated 17.04.2023 for which customs duty was paid on 17.04.2023 through ICICI Bank. However, the payment is not reflected on Icegate and therefore an interest amount is shown on Icegate;
- (b) they have taken up the matter with Icegate but the issue has still not been resolved;
- (c) they requested the Deputy Commissioner to help resolve the issue and waive the interest amount.

9.5 In view of the above, the finding of the Deputy Commissioner that the Appellant had not approached the Customs office with a screenshot of the bank transaction indicating that the payment of duty amount made and had not produced undertaking that duty is nor credited to the Government account is erroneous.

9.6 By Certificate dated 25.09.2023, the Chartered Account of the Appellant certified that in respect of Bill of Entry dated 15.04.2023, the refund amount of Rs. 8,87,762/- was not charged to Statement of Profit and Loss and the same is included under the Head 'Other current assets' as Receivable in the Books of Account.



9.7 The Appellant submits that the Department cannot take advantage of its own wrong. As there were technical difficulties on the Common Portal and with the authorized banks which was being resolved by the Director General of Systems, the duty amount paid by the Appellant was not reflected on Icegate. When the issue was resolved and the Appellant was able proceed with the duty payment, there was an interest amount which had accumulated. The Appellant had no option but to pay interest. For no fault of the Appellant, they had to pay an interest of Rs. 8,87,762/-.

9.8 The CBIC was aware of the difficulties being faced by the importers on account of issues in the Common Portal and therefore time and again the CBIC issued Customs (Waiver of Interest) Orders.

9.9 The Maxim, *Actus Curiae Neminem Gravabit*, meaning no man should suffer because of the fault of the court or delay in the procedure, is applicable to the present case. The maxim refers to that an act of the Court shall prejudice no one. According to the maxim, if in a case, any undeserved or unfair advantage has been gained by a party invoking the jurisdiction of the Court, the same requires to be neutralized. This principle has been held to be fundamental to the system of justice and application to Indian Jurisprudence - that no man should suffer because of the fault of the court or delay in the procedure.

9.10 It is well settled by several judgements that that nobody should suffer for the wrong done by a quasi-judicial body. In this connection the Appellant relies on the following judgements:

(i) Lakshmi Dall Mill - 2018 (360) E.L.T. 307 (Mad.)

'Whatever happened was due to the technical problems in the system maintained by the respondent the writ petitioner cannot be made to suffer for the same. The respondent department cannot take advantage of their own wrong. When the writ petitioner is not at fault and the system maintained by the respondent alone was responsible for a belated generation of bill of entry, this Court has to necessarily hold that the writ petitioner had presented the bill of entry on 7-11-2017 itself.'

(ii) Sew Infrastructure Ltd. 2021 (51) G.S.T.L. 268 (Telangana)

The respondents cannot be allowed to take advantage of their own wrong and blame the petitioner for its inability to pay within time the amount of Rs. 18,91,37,548/- determined in



Form No. SVLDRS-3 on 28-1-2020 by the Designated Committee and label the petitioner as a "defaulter".

(iii) Dabur India Ltd. 2017 (346) E.L.T. 75 (All.)

It is well established that no person can take advantage of his own fault. In the present case, we find that respondents have retained huge money of petitioner without any authority of law and for their own fault are penalising the petitioner by denying due interest on the amount refundable to petitioner.

(iv) Sun Pharmaceutical Industries Ltd. 2015 (322) E.L.T. 311 (Bom.)

(v) Essar Steel Ltd. 2008 (222) E.L.T. 154 (Tri. - Ahmd.)

The revenue cannot be allowed to take advantage of its own refusal. The anxiety of the adjudicating authority to deny credit on technical procedural grounds cannot be appreciated. Affirmed by Gujarat High Court - 2011 (269) E.L.T. 331 (Guj.)

(vi) Sesu International 2003 (159) E.L.T. 161 (Tri. - Mumbai)

But for this delay, the appellant would not have been deprived of the benefit of the exemption. It is a well settled principle of law that no authority can be taken advantage of its own wrong doing. The Appeal filed by the Department in the Supreme Court against this order was dismissed on the ground of delay.

(vii) Priyanka Overseas Pvt. Ltd. - 1991 (51) E.L.T. 185 (S.C.)

(viii) Kuil Fireworks Industries - 1997 (95) E.L.T. 3 (S.C.)

(ix) Rang Lal - 2002 (139) E.L.T. 550 (Raj.)

Appeal filed by the Department was dismissed by Supreme Court.

9.11 The Appellant submits that in identical facts and circumstances of the case, the Assistant Commissioner, Dahej has by order-in-original (dated 27.07.2023) allowed the refund applications for refund of interest filed by the same Appellant and has sanctioned refund of interest.

9.12 The Deputy Commissioner, Hazira by order-in-original dated 07.08.2023 has allowed the refund application filed by the same Appellant. While allowing the refund application, the Deputy Commissioner also took note of the fact that:

'Regarding the system inability at the common portal I find that the Directorate General of Systems and Data Management, CBIC issued an Advisory dated 26.05.2023 wherein it



is mentioned that if the duty payment was initiated using PAN and due to any reason, payment integration failed and amount was transmitted to PAN based wallet. The amount can be transferred from PAN based wallet to the associated IEC ICEGATE ID based wallet/ electronic credit ledger. On going through the said advisory, I find that the technical glitch regarding the system inability for payment integration at ICEGATE portal has not been resolved fully till date'

9.13 The Deputy Commissioner, Hazira while allowing Refund Application relied on Advisory dated 26.05.2023 issued by Directorate General of Systems and Data Management. On 27th July 2023, the Directorate General of Systems and Data Management issued another advisory which was Advisory for operationalization of the Customs (Waiver of Interest) Third Order, 2023 dated April 17, 2023 and the consequential regularization of electronic Bills of Entry in case of manual Out of Charge (OOC) given in the wake of glitches in the implementation of ECL facility since April 01, 2023. It is clear from this Advisory that glitches in ECL facility (which was introduced on 1st April 2023) continued till July 2023 and therefore the Directorate General of Systems issued this Advisory. Paragraph 2(d) of this Advisory reads as follows:

'2. In order to operationalize the Customs (Waiver of Interest) Third Order, 2023 dated April 17, 2023 and to regularize such Bills of Entry in the System for which manual OOC was given, the Board i.e. CBIC has approved the following procedure:

(d) After payment of duty (within 3 days from the 'Date of Removal of System Inability'), integration of the duty in the Customs System and getting the Bill(s) of Entry Out of Charged, User can apply for refund of interest amount charged and paid, at the respective Customs formations.

(e) For the purpose of point (d) above, the 'Date of Removal of System Inability' would be taken as under:

(i) For the ICEGATE registered users whose wallets containing the released blocked funds were made accessible as on the date of this Advisory, 'Date of Removal of the System Inability' would be deemed as the date of issue of this Advisory;

For example, if the date of issue of this advisory is, say, July 27, 2023, then the user would have to pay duty along with interest by July 30, 2023. Failure to do so would make him ineligible for interest waiver by way of subsequent refund of the same in terms of the Customs (Waiver of Interest) Third Order, 2023 dated April 17, 2023.'



9.14 It is clear from a reading of the above Advisory that for registered users of Icegate whose wallets contained the blocked funds which were made accessible as on the date of this advisory then the Date of the removal of system inability will be the date on which this advisory was issued i.e. 27.07.2023.

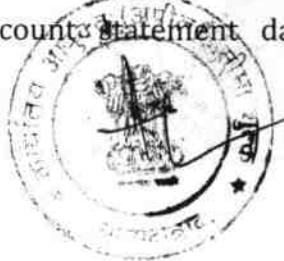
9.15 The Appellant has had initiated the duty process on 13.04.2023 and the ECL was also credited with the duty amount on 13.04.2023 but due to the glitches in the system of ECL/Icegate amount was not available in ECL for the duty payment. The duty amount was available for payment through ECL on 24.04.2023 and ECL system allowed the Appellant to debit the amount of duty along with interest only on 24.04.2023 which the Appellant did. As per the Customs (Waiver of Interest) Third Order, 2023, after payment of duty, within 3 days from the 'Date of Removal of System Inability', the Appellant can apply for refund of interest amount charged and paid. It has been clarified by the Advisory issued by Directorate General of Systems and Data Management on 27.07.2023, then the date of removal of system ability (for those users whose wallets contained the released blocked funds which were made accessible as on the date of this Advisory) is 27.07.2023 i.e. the date of the Advisory and therefore the users were required to pay duty and interest amount by 30.07.2023 which is within 3 days from the date of removal of system inability. It has also been clarified by the Advisory that failure of the user pay duty with interest by 30.07.2023 would make the user ineligible for interest waiver by way of subsequent refund of the same in terms of the Customs (Waiver of Interest) Third Order, 2023 dated April 17, 2023.

9.16 **The funds were made available in ECL on 24.04.2023.** It means the date of removal of system inability for RIL is 24.04.2023. Appellant has paid duty with interest on **24.04.2023** and has applied for refund of interest on 08.06.2023 and is therefore eligible for refund of interest.

Additional Submissions:

10. Vide letter dated 17.06.2025, the appellant has submitted additional submissions, which are as follows:

10.1. We respectfully draw your attention to the recent judgment passed by the **High Court of Rajasthan at Jodhpur**, dated **05.02.2025**, in **Civil Writ Petition No. 2899/2024**. The judgment was delivered in favour of **M/s Grain Energy Pvt. Ltd.**, the petitioner, who had filed a refund application amounting to **Rs. 2,95,781/-**. The refund pertained to interest paid due to delay in integration of payment in the ICEGATE system during the ECL implementation phase. The petitioner's bank account statement dated **20.04.2023**



confirmed successful debit of the payment amounts. However, the third-party integration status of these transactions was marked as "failed," resulting in delayed credit to the government account.

10.2. **As per Para 15** of the judgment states that, "The aforementioned advisory clearly envisages that for ICEGATE registered users, the date of removal of the system inability, in context to the third order dated 17.04.2023, would be the date of issue of advisory i.e., 27.07.2023. Thus, practically, the D.G. Systems has acknowledged that the technical glitches persisted until 27.07.2023."

10.3. **As per para- 18** of Judgments states that, "This Court finds that the order dated 17.04.2023 acknowledged the technical difficulties to have been resolved only to a large extent, but not entirely. The requirement of waiver of interest is subject to certification by the D.G. Systems regarding the date of removal of system inability. Since the D.G. Systems certified the date as 27.07.2023, the respondents cannot claim interest and must refund any interest collected for the transaction in question, especially when the petitioner made the necessary payments in accordance with the Bill of Entry, despite third-party failures, which cannot be attributed to the petitioner.

10.4. In the above para of judgements, it is evidencing that the technical glitches were existence up to the 27.07.2023 and the failure of third party, which cannot be attributes to petitioner.

10.5. In reference to our letter dated 19.04.2023 submitted to the dept., we wish to clarify that the customs duty payment was successfully made on 17.04.2023 at 17:15:34 hours through ICICI Bank, under reference number 1000775902 (Challan No. 2043703753). The bank has duly certified the transaction, and the matter was also brought to the attention of the ICEGATE Help Desk via email dated 18.04.2023.

10.6. It is important to highlight that the due to glitches within the ICEGATE system, we were only able to utilize the wallet balance for payment against the Bill of Entry on 25.04.2023.

10.7. As a result of this delay, an interest amounting to ₹8,87,762/- was incurred. Had the system permitted the linkage of the payment to the Bill of Entry on 17.04.2023, when the credit was first available, this interest liability would not have arisen.



11. In view of the above facts and circumstances of the case, the Appellant has requested to set aside the two impugned orders and allow their appeals with consequential relief.

Personal Hearing

12. Personal Hearing in this matter was held in virtual mode, i.e. through video conference, on 18.06.2025, which was attended by Shri Vishalkumar Terdale, G.M. Customs and Shri. Prem Niwas Choudhary, DGM – Indirect Tax, of the appellant company. They reiterated the written submissions made at the time of filing of appeal.

Findings:

13. I have carefully gone through both the impugned orders, appeal memorandums and written as well as oral submissions made on behalf of the appellant during course of hearing. The issue to be decided in the cases is whether the appellant is entitled or not for refund of interest paid under Section 47 of the Customs Act, 1962, under facts and circumstances of the cases.

14. I find that there is no dispute regarding the fact that there was technical glitch on ICEGATE portal due to which third party integration was failed and so, the duty deposited by the appellant in authorized bank could not be debited in Electronic Credit Ledger ('ECL') in time. This position has been accepted in first two paragraphs of both impugned orders.

15. I have also gone through the screenshot of Icegate enquiry submitted by the appellant, which show that the Challan Status as "SUCCESS" under the column "BANK/RBI Status", but "PENDING" under the column "Payment Integration Status". This means, the appellant has deposited the duty in bank, but the integration of duty deposited in bank with ECL was failed and the duty was not reflecting in ECL. I have also seen the email correspondence made by the appellant with Icegate informing that they have paid duty, but it is not reflecting under the Bill of Entry status of Icegate. In view of the above position, it is clear that the appellant had deposited the duty, but they could not debit the duty in Electronic Credit Ledger in time due to technical glitches in portal.

16. I have also seen the Certificates issued by ICICI Bank towards payment of duty by the appellant, which has been credited to Government Account. The said Certificates are as follows:





ANNEXURE - A

It is hereby certified that an amount detailed below as Customs Duty has been paid on 17.04.2023 in respect of Bill of Entry no. mentioned below from the Account No. : 000405010952 maintained in the name of M/s. Reliance Industries Ltd at ICICI Bank, NARIMAN POINT, MUMBAI, GREATER MUMBAI BRANCH and as per our record the said amount has been credited to the Government Account vide transaction reference no. cited below. We confirm that Re-credit of the said duty amount has not happened in the importer account.

BOE No.	BOE DATE	AMOUNT	TRANSACTION DATE	TRANSACTION REFERENCE NO.
5535272	15.04.2023	30,86,02,916.00	17.04.2023	1000775902



ANNEXURE - A

It is hereby certified that an amount of Rs. 32,66,77,027.00 as Customs Duty has been paid on 13.04.2023 in respect of Bill of Entry No. 5416255 BOE dated 07.04.2023 from the Account No. : 000405010952 maintained in the name of M/s. Reliance Industries Ltd., at our Bank Branch, NARIMAN POINT, MUMBAI, GREATER MUMBAI and as per our record the said amount has been credited to the Government Account vide transaction reference No. 1000563395.



In view of the above Certificates, it is clear that the Bank has transferred the duty paid by the appellant to Government account and thus, the delay is not on part of the appellant.



17. I have also referred the Advisory dated 27.07.2023 issued by the Directorate General of Systems and Data Management, CBIC. The Advisory has been issued in order to operationalise the Customs (Waiver of Interest) Order No. 3/2023 - Customs (NT), dated 17.04.2023 and to regularise such Bills of Entry in the system for which manual OOC was given in wake of glitches in the implementation of ECL facility since April 01, 2023. I find that the present case is covered under Para 2(e)(i) of the aforesaid Advisory, which states that the 'Date of Removal of the System Inability' would be deemed as the date of issue of the said Advisory, i.e. **27.07.2023**. Therefore, the users, who have paid the duty along with interest by 30.07.2023, would be eligible for waiver of refund of interest. I find that in the present appeals, the duty has been paid on **17.04.2023** for BoE No. 5535272 dated 15.04.2023 (Appeal No. 448/23-24) and on **13.04.2023** for BoE No. 5416255 dated 07.04.2023 (Appeal No. 449/23-24). As both the date of payments are prior to the dates 27.07.2023 and 30.07.2023, as mentioned in the said Advisory, both Bills of Entry are eligible for waiver of interest. In view of the above position, I agree with the contentions of the appellant that interest is not payable for clearance of goods covered under the impugned two Bills of Entry.

18. As regards liability to pay interest on account of delayed payment/debit of duty due to technical glitches in portal, I rely upon the following case law, in addition to the cases relied upon by the appellant:

18.1 Hon'ble Madras High Court in the case of ***Eicher Motors Limited Vs. Superintendent of GST and Central Excise***, [(2024) 14 Centax 323 (Mad.) = 2024 (81) G.S.T.L. 481 (Mad.)], referred to the Explanation to Section 49 and held that interest is not payable when the money was credited to e-cash ledger since the amount gets credited to the Government account on the date of deposit in e-cash ledger.

"46. Section 49(1) of the Act deals with the amount to be credited to the Electronic Cash Ledger i.e., every deposit made towards the tax, interest, penalty, fee or any other amount shall be credited to the Electronic Cash Ledger of such person to be maintained in such manner as may be prescribed. Further, as discussed above, the explanation (a) to section 49(11) of the Act clearly states that any tax amount, which is to be paid by generating GST PMT-06, will be directly credited to the account of the Government and thereafter, for the purpose of accounting, it would be deemed to be credited to the Electronic Cash Ledger, which is only for the limited purpose of the quantification of the liability towards GST and to verify as to whether the entire liability has been paid/deposited/discharged by the

registered person in accordance with the provisions of the Act and Rules made thereunder. It is not that the discharge has been made only when the debit entries are made since whenever the amount is deposited or credited to the Government, that will be the actual date of discharge of tax liability to the extent of deposit and the ECL is only a ledger which will ultimately ensure the discharge of tax liabilities are made in time as per the due date."

18.2 Hon'ble Gujurat High Court in ***Vishnu Aroma Pouching Private Limited vs. Union of India, 2020 (38) G.S.T.L. 289 (Guj.)*** provided relief to taxpayer from payment of interest due to delay in filing of return on account of technical glitch. The Court observed as under:

"14. Thus, the petitioner had duly discharged the tax liability of August 2017 within the period prescribed; therefore, however, it was only on account of technical glitches in the System that the amount of tax paid by the petitioner for August 2017 had not been credited to the Government account. Hence, the interests of justice would best be served if the declaration submitted by the petitioner in October 2019 along with the return of September 2019 is treated as discharge of the petitioner's tax liability of August 2017 within the period stipulated under the GST laws. Consequently, the petitioner would not be liable to pay any interest on such tax amount for the period from 21-9-2017 to October 2019."

18.3 In the case of ***AFT Tobacco Private Limited Vs. Commissioner of CGST and Central Excise (2023) 3 Centax 119 (Tri.-Del)***, the Principle Bench of the Hon'ble Tribunal observed the following:

"8. Learned Counsel for the appellant inter-alia urges that the findings in the order-in-original is not challenged by Revenue before the Commissioner (Appeals), where it has been held that the show cause notice itself issued under section 11A(4) is bad. There being no condition precedent available for the same. Further, evidently the delay occurred in deposit of tax due to inaction or sloppiness on the part of the Revenue in removing the glitch in its portal. Admittedly, appellant was always trying to make the deposit but due to the glitch on the portal. Admittedly, appellant has kept the Revenue informed regularly since the beginning and had also mentioned the difficulty being faced in each and every monthly return. Revenue never bothered to remove the difficulty till last week of August, 2019, nor even responded to various representations given by the appellant. Further, admittedly the appellant had no other way to deposit the amount of NCCD as the law mandates only through online portal. Thus, Revenue could not take advantage of its wrongdoing by levy of interest. The appellant is being practically penalised for no fault of theirs."

19. I have gone through the Judgment dated 05.02.205 of Hon'ble High Court of Rajasthan at Jodhpur in D.B. Civil Writ Petition No. 2899/2024 filed by **M/s. Grain Energy Pvt. Ltd.**, which has been reported as **(2025) 29 Centax 425 (Raj.)**. In the said Judgment,



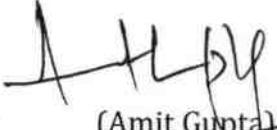
Hon'ble High Court of Rajasthan has inter alia observed that the **D.G. Systems has acknowledged that the technical glitches were existing till 27.07.2023** and held to the effect that **where payment of Customs duty was made to authorized Bank promptly after receiving bill of entry, but there was delay in credit in government account due to technical glitches, assessee was not at fault for such delay and any interest taken by authorities for transaction in question had to be refunded.** I find that the situation covered in the said case of Grain Energy Pvt. Ltd. (supra) is similar to the situation covered in the present appeals and therefore, I respectfully follow the ratio of the Judgment of Hon'ble Rajasthan High Court in the case of Grain Energy Pvt. Ltd. (supra) as well as other case laws mentioned hereinabove.

20. In view of the above discussion and findings, I hold that the appellant is entitled to get refund of interest paid by them due to technical glitch on ICEGATE portal, which resulted into failure of integration of payment of duty deposited in bank with the Electronic Credit Ledger, and caused delay in debit of duty in Electronic Credit Ledger of the appellant. Thus, I hold that the two impugned orders passed by the adjudicating authority are not legal & proper and therefore liable to be set aside.

Order

21. In view of the above findings, I set aside the impugned Order-In-Original Nos. 05/AC/SRT/Refund/2023 dated 05.01.2024 and 04/AC/SRT/Refund/2023 dated 05.01.2024, both passed by the Assistant Commissioner of Customs, Division Surat, and allow both the appeals filed by M/s. Reliance Industries Ltd. with consequential relief in accordance with law.




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

F.Nos. S/49-448/CUS/AHD/2023-24
S/49-449/CUS/AHD/2023-24

Date: 10.07.2025

By E-mail (As per Section 153(1)(c) of the Customs Act, 1962)

To

M/s. Reliance Industries Ltd.,
Village Mora, PO-Bhatha, Hazira Road,
Surat.
(Email: Alok.Prasad@ril.com Srinivas.Ganeshan@ril.com Prem3.Choudhary@ril.com)

Copy to:

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.
(email: ccohm-guj@nic.in)
2. The Principal Commissioner of Customs, Custom House, Ahmedabad.
(email: cus-ahmd-guj@nic.in rra-customsahd@gov.in)
3. The Deputy/Assistant Commissioner of Customs, Custom Division Surat.
(email: Custech.surat@gov.in)
4. Guard File.

