



सीमाशुल्क(अपील) आयुक्तकाकार्यालय,

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), अहमदाबाद AHMEDABAD,
चौथी मंज़िल 4th Floor, हडकोभवन HUDCO Bhavan, ईश्वर भुवन रोड़ IshwarBhuvan Road,
नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009 दूरभाषक्रमांक Tel. No. 079-
26589281

DIN – 20250671MN000000DD91

क	फ़ाइलसंख्या FILE NO.	S/49-10/CUS/KDL/24-25
ख	अपीलआदेशसंख्या ORDER-IN- APPEAL NO. (सीमाशुल्कअधिनियम, 1962 कीधारा 128ककेअंतर्गत) (UNDER SECTION 128A OF THE CUSTOMS ACT, 1962):	KDL-CUS-000-APP-009-2025-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	12.06.2025
ङ	उद्भूतअपीलआदेशकीसं. वदिनांक ARISING OUT OF ORDER-IN- ORIGINAL NO.	OIO No. KDL/AC/17/DSR/Ref/2024-25 dated 29.04.2024 issued by The Assistant Commissioner of Customs, Customs House Kandla, kandla.
च	अपीलआदेशजारीकरनेकीदिनांक ORDER- IN-APPEAL ISSUED ON:	12.06.2025
छ	अपीलकर्ताकानामवपता NAME AND ADDRESS OF THE APPELLANT:	M/s Styrenix Performance Materials Limited earlier known as M/s Ineos Styrolution India Limited, 9th floor, Shiva Sarabhai Compound, DrVikram Sarabhai Marg, Vadiwadi, Vadodara-390023

1. यहप्रतिउसव्यक्तिकेनिजीउपयोगकेलिएमुफ्तमेंदीजातीहैजिनकेनामयहजारीकियागयाहै.

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2. सीमाशुल्कअधिनियम 1962 कीधारा 129 डीडी (1) (यथासंशोधित)
केअधीननिम्नलिखितश्रेणियोंकेमामलोंकेसम्बन्धमेंकोईव्यक्तिइसआदेशसेअपनेकोआहतमहसूसकरताहोतोइसआ
देशकीप्राप्तिकीतारीखसे 3 महीनेकेअंदरअपरसचिव/संयुक्तसचिव (आवेदनसंशोधन), वित्तमंत्रालय,
(राजस्वविभाग) संसदमार्ग, नईदिल्लीकोपुनरीक्षणआवेदनप्रस्तुतकरसकतेहैं.

	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.
	निम्नलिखितसम्बन्धितआदेश/Order relating to :
(क)	बैगेजकेरूपमेंआयातितकोईमाल.
(a)	any goods imported on baggage.
(ख)	भारतमेंआयातकरनेहेतुकिसीवाहनमेंलादागयालेकिनभारतमेंउनकेगन्तव्यस्थानपरउतारेनगएमालयाउसगन्तव्यस्थानपरउतारेजानेकेलिएअपेक्षितमालउतारेनजानेपरयाउसगन्तव्यस्थानपरउतारेगएमालकीमात्रामेंअपेक्षितमालसेकमीहो.
(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)	सीमाशुल्कअधिनियम, 1962 केअध्यायX तथाउसकेअधीनबनाएगएनियमोंकेतहतशुल्कवापसीकीअदायगी.
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
3.	पुनरीक्षणआवेदनपत्रसंगतनियमावलीमेंविनिर्दिष्टप्रारूपमेंप्रस्तुतकरनाहोगाजिसकेअन्तर्गतउसकीजांचकीजाएगी औरउसकेसाथनिम्नलिखितकागजातसंलग्नहोनेचाहिए :
	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)	कोर्टफीएक्ट, 1870केमदसं.6 अनुसूची 1 केअधीननिर्धारितकिएगएअनुसारइसआदेशकी 4 प्रतियां, जिसकीएकप्रतिमेंपचासपैसेकीन्यायालयशुल्कटिकटलगाहोनाचाहिए.
(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)	सम्बद्धदस्तावेजोंकेअलावासाथमूलआदेशकी 4 प्रतियां, यदिहो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षणकेलिएआवेदनकी 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षणआवेदनदायरकरनेकेलिएसीमाशुल्कअधिनियम, 1962 (यथासंशोधित) मेंनिर्धारितफीसजोअन्यरसीद, फीस, दण्ड, जब्तीऔरविविधमदोंकेशीर्षकेअधीनआताहैमेंरु. 200/- (रूपएदोसौमात्र) या रु. 1000/- (रूपएएकहजारमात्र), जैसाभीमामलाहो. सेसम्बन्धितभुगतानकेप्रमाणिकचलानटी.आर.6 कीदोप्रतियां. यदिशुल्क, मांगागयाब्याज, लगायागयादंडकीराशिऔररूपएएकलाखाउससेकमहोतोऐसेफीसकेरूपमेंरु. 200/- औरयदिएकलाखसेअधिकहोतोफीसकेरूपमेंरु. 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.	मदसं. 2 केअधीनसूचितमामलोंकेअलावाअन्यमामलोंकेसम्बन्धमेंयदि कोईव्यक्तिइसआदेशसेआहतमहसूसकरताहोतोवेसी माशुल्कअधिनियम 1962 कीधारा 129 ए (1) केअधीनफॉर्मसी.ए.-3 मेंसीमाशुल्क, केन्द्रीयउत्पादशुल्कऔरसेवाकरअपीलअधिकरणकेसमक्षनिम्नलिखितपतेपरअपीलकरसकतेहैं
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :
सीमाशुल्क, केन्द्रीयउत्पादशुल्कवसेवाकरअपीलियधिकरण, पश्चिमीक्षेत्रीयपीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench

	दूसरीमंजिल, बहुमालीभवन, निकटगिरधरनगरपुल, असारवा, अहमदाबाद-380016	2 nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	सीमाशुल्कअधिनियम, 1962 कीधारा 129 ए (6) केअधीन, सीमाशुल्कअधिनियम, 1962 कीधारा 129 ए(1)केअधीनअपीलकेसाथनिम्नलिखितशुल्कसंलग्नहोनेचाहिए-	
	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)	अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपाँचलाखरूपएयाउससेकमहोतोएकहज़ाररूपए.	
(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)	अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपाँचलाखरूपएसेअधिकहोलेकिनरुपयेपचासलाखसेअधिकनहोतो; पाँचहज़ाररूपए	
(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)	अपीलसेसम्बन्धितमामलेमेंजहांकिसीसीमाशुल्कअधिकारीद्वारामांगागयाशुल्कऔरव्याजतथालगायागयादंडकीरकमपचासलाखरूपएसेअधिकहोतो; दसहज़ाररूपए.	
(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)	इसआदेशकेविरुद्धअधिकरणकेसामने, मांगेगएशुल्कके 10% अदाकरनेपर, जहांशुल्कयाशुल्कएवंदंडविवादमेंहैं, यादंडके 10% अदाकरनेपर, जहांकेवलदंडविवादमेंहैं, अपीलरखाजाएगा।	
(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.	उक्तअधिनियमकीधारा 129 (ए) केअन्तर्गतअपीलप्राधिकरणकेसमक्षदायरप्रत्येकआवेदनपत्र- (क) रोकआदेशकेलिएयागलतियोंकोसुधारनेकेलिएयाकिसीअन्यप्रयोजनकेलिएकिएगएअपील : - अथवा (ख) अपीलयाआवेदनपत्रकाप्रत्यावर्तनकेलिएदायरआवेदनकेसाथरुपयेपाँचसौकाशुल्कभीसंलग्नहोनेचाहिए.	
	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 Styrenix Performance Materials Limited earlier known as M/s Ineos Styrolution India Limited, 9th floor, Shiva Sarabhai Compound, Dr Vikram Sarabhai Marg, Vadiwadi, Vadodara-390023 (hereinafter referred to as the "appellant") have filed the present appeal in terms of Section 128 of the Customs Act, 1962 against the OIO No. KDL/AC/17/DSR/Ref/2024-25 dated 29.04.2024 (hereinafter referred to as the "impugned order") issued by the Assistant Commissioner of Customs (Refund), Customs House, Kandla (hereinafter referred to as the "adjudicating authority").

2. Briefly stated, facts of the case are that the appellant had imported the Acrylonitrile from Ineos, Europe, AG and Ineos, UK Limited i.e. related suppliers vide 21 Bills of Entry and paid 1% EDD amounting to Rs. 2,31,57,044/- during the provisional assessment. Further, the said BOE were finally assessed and the Assistant Commissioner of Customs, Special Valuation Branch, GATT Valuation Cell, Ballard Estate, Mumbai vide Investigation report No 94/AC/SVB/MKM/19-20 dated 20.09.2019, accepted the declared invoice value as transaction value of goods imported vide 21 BOE. Thereafter, upon the Final assessment of the BOEs, the appellant vide letter dated 04.08.2021 and 17.09.2021 had filed the refund claim of Rs. 2,31,57,044/- towards the 1% EDD paid during provisional assessment of import of impugned goods as follows:

Sr. No.	BOE No. & Date	ED Paid	Date of Final Assessment	Last date for filing refund claim
1	3069244 22.08.2013	16,57,950/-	02.12.2019	01.12.2020
2	3745976 07.11.2013	32,41,615/-	20.11.2019	19.11.2020
3	5368132 01.05.2014	19,45,644/-	20.11.2019	19.11.2020
4	2689767 23.09.2015	8,14,348/-	20.11.2019	19.11.2020
5	3094491 29.10.2015	4,28,361/-	20.11.2019	19.11.2020
6	3094656 29.10.2015	1,83,583/-	02.12.2019	01.12.2020
7	3284551 17.11.2015	3,11,243/-	02.12.2019	01.12.2020
8	3284575 17.11.2015	6,84,734/-	20.11.2019	19.11.2020
9	6303647 01.08.2014	11,81,738/-	20.11.2019	19.11.2020

10	7093659 17.10.2014	12,08,688/-	20.11.2019	19.11.2020
11	7093681 17.10.2014	12,00,330/-	20.11.2019	19.11.2020
12	7292750 06.11.2014	12,37,626/-	20.11.2019	19.11.2020
13	7437216 19.11.2014	11,95,968/-	20.11.2019	19.11.2020
14	8205633 04.02.2015	22,50,801/-	20.11.2019	19.11.2020
15	8791204 01.04.2015	10,46,331/-	06.04.2015 (but the assessment is not final as per the AIO)	05.04.2016
16	8947110 17.04.2015	9,31,069/-	20.11.2019	19.11.2020
17	9466679 04.06.2015	9,04,007/-	06.05.2015	05.05.2016
18	9658479 22.06.2015	9,02,971/-	02.12.2019	01.12.2020
19	2670761 22.09.2015	8,02,601/-	20.11.2019	19.11.2020
20	3547738 11.12.2015	5,12,934/-	20.11.2019	19.11.2020
21	3546688 11.12.2015	5,14,502/-	26.08.2019	25.08.2020
Total		2,31,57,044/-		

2.1 However, the said refund claim was rejected vide OIO No. KDL/AC/TSK/143/Ref/2021-22 dated 20.12.2021 for the reason refund being time barred in terms of section 27(1B) (C) as the refund was filed beyond one year from final assessment. Being aggrieved, the appellant filed the Appeal before Hon'ble Commissioner (Appeals) who vide OIA No. KDL-CUSTOM-000-APP-146-23-24 dated 03.07.2023 set aside the OIO No. KDL/AC/TSK/143/Ref/2021-22 dated 20.12.2021 and allowed the appeal with consequential relief and also held that the appellant is eligible for refund under section 18(4) of Customs Act 1962. The relevant para is reproduced below:

"I find that the last date for filing the refund claims, as discussed in the impugned order, were 25.08.2020, 19.11.2020 and 01.12.2020. However, the refund claim was filed on 30.09.2021, which was beyond the time limit of one(01) year. It is further observed that Hon'ble Supreme Court, vide Order dated 10.01.2022 in M.A. No. 21 of 2022, has directed that

"(I) in computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 28.02.2022 is to be excluded for the purposes of limitation.....

(III) In cases where the limitation would have expired during the period between 15-3-2020 till 28-2-2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 1-3-2022".expired during the period between 15.03.2020 till 28.02.2022. Thus, the appellant had a limitation

period of 90 days from 01.03.2022, i.e., till 29.05.2022 for filing the refund claim. Therefore, the refund claim filed before 29.05.2022 deserves to be treated as filed within the time limit prescribed in Section 27 of the Customs Act, 1962 after considering the judgment of Hon'ble Supreme Court (Supra). Further, I also rely on the judgment of Hon'ble Bombay High Court in the case of Saiher Supply Chain Consulting Pvt. Ltd. v. Union of India - 2022 (63) G.S.T.L. 415 (Bom.) wherein it has been held that

"the period of limitation for the purpose of refund application also stands extended for the period as directed by the Hon'ble Supreme Court." This judgment of Hon'ble Bombay High Court was subsequently affirmed by the Hon'ble Supreme Court in SLP 12404 of 2022 dated 29.07.2022 [2022 (66) G.S.T.L. 3 (SC)]...... Therefore, I find that the impugned order passed by the adjudicating authority is not in accordance with the order passed by the Hon'ble Supreme Court and thus deserves to be quashed and set aside"

2.2 Thereafter, the appellant again filed the refund application along with copy of OIA and OIO which was approved by the adjudicating authority who vide the impugned order passed the following order as:

"....

15. I find that the issue squarely falls under the above explained situation and I find that the importer is eligible for refund of Rs.2,31,57,044/- under Customs Act, 1962. Further, details of final assessment has been verified along with 1% EDD deposit challan and No recoverable due certificate has been obtained from the TRC section.

16. File has been duly pre-audited vide letter F.No. S/7-04/KCH/Pre-Audit/2021-22 dated 24.04.2024.

17. In view of above discussion and findings I find that the claimant is eligible for Refund of Rs.2,31,57,044/- and pass the following order.

Order

I, sanction the amount of Rs.2,31,57,044/- paid as Extra Duty Deposit (EDD) to M/s Styrenix Performance Materials Limited, 9th floor, Shiva, Sarabhai Compound, Dr Vikram Sarabhai Marg, Vadiwadi, Vadodara-390023."

3. Being aggrieved with the impugned order, the appellant has filed the present appeal on the following grounds:

- That the adjudicating authority erred in not granting interest on the refund of Rs. 2,31,57,044/- (Extra Duty Deposit), which is mandatorily payable under Section 18(4) of the Customs Act, 1962.
- That the refund was sanctioned post-finalization of provisional assessment. In such cases, Section 18(4) provides a clear and non-discretionary obligation to pay interest from the expiry of 3 months from the final assessment date until the actual date of refund.

- That the Commissioner (Appeals) had already allowed the refund in Order-in-Appeal dated 03.07.2023, holding that the refund claim was filed within limitation due to the Supreme Court's COVID-extension orders.
- They have relied on the following Judgments:
 - Saiher Supply Chain Consulting Pvt. Ltd. (Bombay HC) and affirmed by SC: COVID-related extensions apply to refund claims.
 - Mafatlal Industries Ltd. (SC) and other High Court rulings: Extra Duty Deposit (EDD) refunds do not require a separate refund application; they are to be granted automatically after final assessment.



PERSONAL HEARING

4. Shri Willingdon Christian, Advocate appeared on 11.06.2025 for the Appellant and reiterated the submissions made in the appeal memorandum.

DISCUSSION & FINDINGS

5. I have gone through the appeal memorandum filed by the Appellant, records of the case and submissions made during personal hearing. The main contention of the appeals is that the appellant is eligible for the refund of interest on EDD amount. Therefore, the main issue to be decided in the present appeal are whether the impugned order not granting the refund of interest while sanctioning only the EDD amount, in the facts and circumstances of the case, is legal and proper or otherwise.

6. Before going into the merits of the case, I find that as per CA-1 Form of the Appellant, the present appeals have been filed on 19.06.2024 against the impugned order dated 29.04.2024 which is within the statutory time limit of 60 days prescribed under Section 128(1) of the Customs Act, 1962. As the appeal has been filed within the stipulated time-limit, it has been admitted and being taken up for disposal in terms of Section 128A of the Customs Act, 1962.

6.1 It is observed that the adjudicating authority vide impugned order has sanctioned refund of Rs. 2,31,57,044/- which was paid by the appellant as Extra Duty Deposit (EDD) during provisional assessment of imported goods. In this regard, I find that the adjudicating authority has sanctioned the refund in light of the OIA issued from Commissioner Appeal, i.e. Order-in-Appeal No.KDL-CUSTOM-000-APP-146-23-24 dated 3.7.2023, the relevant Paras 7.1 to 7.4 and Para 8 of the same is reproduced as below:

"7.1. I find that the appellant had filed refund claim in respect of the payment of 1% Revenue Deposit paid at the time of provisional

assessment and the same was rejected by the adjudicating authority on the ground of limitation under Section 27(1B)(c) of Customs Act, 1962. Therefore, the issues to be decided in the present appeal is whether :

- a) the impugned order rejecting the refund claim of the appellant on the grounds of limitation is legal and proper or otherwise.
- b) whether the appellant is entitled for suo moto refund of the Revenue Deposit made at the time of provisional assessment of Bills of Entry without filing an application for refund under Section 27 of the Customs Act, 1962?

7.2 As regards the first issue, on going through Para 8 of the impugned order, I find that the appellant is eligible for refund of Rs.2,31,57,044, as the declared value in respect of all the Bills of Entry in Table-1 has been accepted by SVN, GATT Cell, Mumbai. Further, in Para 9.3 of the impugned order, the adjudicating authority has discussed the last date for filing the refund claim under Section 27 of the Customs Act, 1962, i.e. 01(one) year from the date of final assessment of all such Bills of Entry and accordingly, rejected the refund application on ground of limitation. On perusal of the Column-6 of the Table-1 above, I find that the last date for filing the refund claims, as discussed in the impugned order, were 25.8.2020, 19.11.2020 and 1.12.2020. However, the refund claim was filed on 30.9.2021, which was beyond the time limit of one (01) year. It is further observed that Hon'ble Supreme Court, vide Order dated 10.1.2022 in M.A. No.21 of 2022, has directed that

"(I) in computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.3.2020 till 28.2.2022 is to be excluded for the purposes of limitation....

(III) In cases where the limitation would have expired during the period between 15.3.2020 till 28.2.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 1.3.2022.

In the present appeal, I find that the last date for filing the refund claim had expired during the period between 15.3.2020 till 28.2.2022. Thus, the appellant had a limitation period of 90 days from 1.3.2022, i.e. till 29.5.2022 for filing the refund claim. Therefore, the refund claim filed before 29.5.2022 deserves to be treated as filed within the time limit prescribed in Section 27 of the Customs Act, 1962 after considering the judgement of Hon'ble Supreme Court (supra). Further, I also rely on the

judgement of Hon'ble Bombay High Court in the case of Saiher Supply Chain Consulting Pvt. Ltd. Vs. UOI – 2022 (63) GSTL 415 (Bom.) wherein it has been held that

“the period of limitation for the purpose of refund application also stands extended for the period as directed by the Hon'ble Supreme Court.”

This judgement of Hon'ble Bombay High Court was subsequently affirmed by the Hon'ble Supreme Court in SLP 12404 of 2022 dated 29.7.2022 [2022 (66) GSTL 3 (SC)]. The judgement was relied upon in the case of 2023-TIOL-35-HC-MUM-GST Priceline.com Technology India LLP Vs. UOI wherein it was held that :



“For the purpose of ascertaining whether the limitation period in the Petitioner's case stood extended/protected by the order of the Hon'ble Supreme Court as above, first the relevant date for starting of the limitation will have to be established. The factual position as per the explanation to Section 54 as regards the Relevant Date will have to be determined first and then legal position as laid down in the above decisions can be applied. For the argument of extension of limitation, the basic dates of starting and ending of period of limitation in each case with reference to different categories of the explanation to Section 54 have to be arrived at. No such exercise is carried in the impugned orders on this aspect. Therefore, the law laid down in the above decision cannot be straightway applied unless the basic facts are established.”

Therefore, I find that the impugned order passed by the adjudicating authority is not in accordance with the Order passed by the Hon'ble Supreme Court and thus deserves to be quashed and set aside.

7.3 As regards the second issue, I find that in respect of the Bills of Entry, as mentioned in Table-2 above, the declared value has already been accepted by the Assistant Commissioner (SVB), GATT Cell, Mumbai. However, the assessment is not final/available as per AIO. I also find that the appellant has relied upon the judgement of Hon'ble High Court of Delhi in the case of M/s EM PEE Syndichem Pvt. Ltd. Vs. UOI 2012 (279) ELT 340 (Del). I find that the issue of suo moto refund of Extra Duty Deposit (EDD) made at the time of provisional assessment is no more res

integra in light of the judgement of Hon'ble Supreme Court in case of Mafatlal Industries Ltd. vs. UOI – 1997 (89) ELT 247 (SC), which has been relied upon in the various judgements including in the case of Commr. of Customs (Export), Chennai Vs. Sayonara Export Pvt. Ltd. – 2015 (321) ELT 583 (Mad.) wherein it has been held that

“the Assessee is entitled for automatic refund of extra duty deposit made pending finalization of the provisional assessment without filing an application for refund under Section 27 of Customs Act, 1962.

Further, Section 18(4) of Customs Act, 1962, states that Subject to sub-section (5), if any refundable amount referred to clause (a) of sub-section (2) is not refunded under the sub-section within three months from the date of assessment of duty finally or re-assessment of duty, as the case may be, there shall be paid an interest on such unrefunded amount at such rate fixed by the Central Government under Section 27A till the date of refund of such amount.

Therefore, any refund, which arises after the final assessment or re-assessment, is required to be refunded suo moto within three months of date of final/re-assessment.

7.4 Therefore, in view of the judgements mentioned above and legal provisions under Section 18(4) of the Customs Act, 1962, I find that the appellant is eligible for refund of the excess amounts collected from them at the time of provisional assessment of Bills of Entry as mentioned in the Table-1 & 2 above.

8. In view of the settled position of the law (referred supra), I do not find any merits in the impugned order passed by the adjudicating authority. Accordingly, the impugned order is set aside and the appeal is allowed with consequential relief.”

6.2 Further, regarding the interest portion, appellant has contended since the refund of the EDD amount has arisen out of the finalization of the provisional assessment, the adjudication authority while sanctioning the refund amount has not sanctioned the interest for which they are eligible for the period from the date of expiry of 3 months from the date of final assessment till the date of payment of refund in terms of Section 18(4) of the Customs Act, 1962.

In this regard, it is relevant to reproduce Section 18(4)

Section 18(4) of Customs Act, 1962:

“....

(4) Subject to sub-section (5), if any refundable amount referred to clause (a) of sub-section (2) is not refunded under the sub-section within three months from the date of assessment of duty finally or re-assessment of duty, as the case may be, there shall be paid an interest on such unrefunded amount at such rate fixed by the Central Government under Section 27A till the date of refund of such amount .

.....”

The plain and unambiguous reading of Section 18(4) of the Customs Act, 1962, makes it abundantly clear that if any amount becomes refundable pursuant to final assessment under sub-section (2), and such refund is not made within three months from the date of such final assessment, interest shall be payable on the delayed refund. In the present case, since the refund has not been sanctioned within the stipulated three-month period, the appellant is entitled to interest on the delayed refund amount, as mandated under the said provision.

7. In view of the above, the appeal is allowed and the adjudicating authority is directed to grant the interest to the appellant in accordance with the provisions of Section 18(4) of the Customs Act, 1962.



F. Nos. S/49-10/CUS/KDL/24-25

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(Handwritten Signature)

(AMIT GUPTA)
COMMISSIONER (APPEALS)
CUSTOMS, AHMEDABAD

Dated – 12.06.2025

सत्यापित/ATTESTED

(Handwritten Signature)

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