



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

**OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD,**

चौथी मंजिल 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 - 20251171MN0000444A20

क	फ़ाइल संख्या FILE NO.	S/49-164/CUS/MUN/2024-25
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962)	MUN-CUSTM-000-APP-428-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	28.11.2025
ड	उद्भूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original no. MCH/ADC/MK/103/2024-25 dated 01.08.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	28.11.2025
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s Metco Export International, A/401, Koteswar Palace, Road No. 4, Kol-Dongri, Andheri East, Mumbai - 400069



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 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/- (रुपए दो सौ मात्र)या रु.1000/- (रुपए एक हजार मात्र), जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां। यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रुपए 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><b>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</b></td> </tr> <tr> <td>दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016</td> <td>2<sup>nd</sup> 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	<b>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</b>	दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 <sup>nd</sup> Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ	<b>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</b>				
दूसरी मंजिल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 <sup>nd</sup> Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016				
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>(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 ।</p> <p>(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.</p>				
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.				
	<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 Metco Export International, A/401, Koteswar Palace, Road No. 4, Kol-Dongri, Andheri East, Mumbai - 400069, (hereinafter referred to as the 'Appellant' in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original no. MCH/ADC/MK/103/2024-25 dated 01.08.2024 (hereinafter referred to as 'the impugned order') issued by the Additional Commissioner of Customs, Mundra.

2. Facts of the case, in brief, are that the appellant filed Shipping Bill Nos. 7921658 dated 20.02.2023 and 8197531 dated 02.03.2023 through their CHA M/s Worldwind Shipping Services for export of goods declared as "Indian Non Sortex Parboiled Rice" classified under CTH-10063010. As per Board Instruction No. 29/2022-Customs dated 28.10.2022, representative samples were drawn and sent to CRCL Kandla vide Test Memos and the cargo was allowed for export on provisional basis on submission of Test Bonds submitted by the Exporter which were accepted by the Deputy Commissioner (Export), Customs House, Mundra. Respective Test Reports were received against the Test Memos wherein it is mentioned that "Based on the physical appearance, forms and analytical findings, it appears to be "Other than Parboiled Rice (Broken 27.01%) and Parboiled Rice (Broken 26.30%)", against the declared export cargo in the Shipping Bills as "Indian Non Sortex Parboiled Rice". The details of Shipping Bills and their corresponding Test Reports are as under:

Sr. No.	Shipping Bill No. & Date	Net Wt.	Test Report No. & Date	FOB Declared (in Rs.)	Summary of Test Result
1.	7921658 Dt. 20.02.2023	265 MTS	10732 Dt. 14.03.2023	69,52,819	Other than Parboiled Rice (Broken 27.01%)
2.	8197531 Dt. 02.03.2023	5 MTs	10391 Dt. 06.03.2023	1,31,003	Parboiled Rice (Broken 26.30%)

2.1 A copy of the said Test Report was provided to the Appellant, for their information with a specific request to submit their submission within 10



days of the communication as to why the proceedings should not be initiated under Customs Act, 1962 as the instant case was seen falling under the purview of Mis-declaration of the Export cargo.

2.2 With reference to above mentioned shipping bill, the Appellant had classified the same goods as "Indian Non Sortex Parboiled Rice" classified under CTH 10063010 but pursuant to the outcome of the Test Result, the consignment of the exported goods is found to be "Other than Parboiled Rice (Broken 27.01%) and Parboiled Rice (Broken 26.30%)". As per Customs Tariff, Broken Rice is classifiable under CTH 10064000 and therefore the goods already exported 'is required "to be classified' under CTH 10064000 and to be confiscated being Prohibited Goods as per Notification No. 31/2015- 2020-Customs dated 08.09.2022 issued by the Board. It is also pertinent to mention that goods are also found to be other than Parboiled which concludes to be a mis-declaration as well.

2.3 The Appellant under the Customs Bond had binding to the effect that in the event of failure of cargo in the Test Report, the Exporter will pay the duty along with interest, fine and/or penalty, if any imposed for contravention of the Customs Act, 1962 and other allied Acts. On the basis of Customs Bond submitted by the Appellant, the goods were allowed for ultimate export provisionally. Subsequently, the Test Reports confirmed the export goods were "Parboiled Rice (non-basmati) (27.3% broken)". Accordingly, Shipping Bill mentioned in the Table above needed to be assessed finally on the basis of Test Report. On the basis of Test Report, the goods needed to be re-classified under CTH 10064000. Consequently, the Appellant was liable for penal action.

2.4 The Appellant appeared to have failed to declare the correct classification of the export cargo in the Shipping Bill. It appeared that the appellant had resorted to mis-classification and mis-declaration of the export cargo in order to evade payment of export duty/cess leviable on the export cargo. Thus, the Appellant appeared to have contravened the provisions of the Section 50 of the Customs Act, 1962. The acts of omission and commission made by the Appellant rendered the export cargo liable for confiscation under Section 113(i) and 113(d) of the Customs Act, 1962. On account of export goods liable for confiscation, the Appellant had made themselves liable for penal action under Section 114 (i) & 114 (ii) of the Customs Act, 1962. On account of contravention



of the provisions of Section 50 of the Customs Act, 1962, the Appellant has made themselves liable for penal action under Section 117 of the Customs Act, 1962.

2.5 In view of the above, a Show Cause Notice was issued to the Appellant as to why:

- (i) the classification of the goods declared by the Appellant under Shipping Bills tabulated above should not be rejected and re-classified under CTH 10064000;
- (ii) the goods covered under Shipping Bill tabulated above should not be confiscated under Section 113 (d) and 113(i) of the Customs Act, 1962;
- (iii) the penalty under Section 114 (i) and (ii) of the Customs Act, 1962 should not be imposed upon the Appellant;
- (iv) the penalty under Section 117 of the Customs Act, 1962 should not be imposed upon the Appellant.

2.6 Consequently, the Adjudicating Authority adjudicated the show cause notice vide impugned order where in she passed the order as under:

- (i) She ordered to reject the classification of the exported goods "Indian Non Sortex Parboiled Rice" classified under CTH-10063010 as declared by the exporter and ordered to re-classify the exported goods under CTH-10064000 as Broken Rice covered under Shipping Bill Nos.7921658 dated 20.02.2023 & 8197531 dated 02.03.2023;
- (ii) She ordered for confiscation of the goods having FOB value of Rs.69,52,819/- and Rs.1,31,003/- covered under Shipping Bill Nos. 7921658 dated 20.02.2023 & 8197531 dated 02.03.2023 respectively under Section 113 (d) & 113(i) of the Customs Act, 1962. However, as the goods had already been exported under Bond, he imposed Redemption Fine of Rs.7,00,000/- (Rupees Seven Lakh Only);
- (iii) She ordered to impose and recover penalty of Rs.3,50,000/- (Rupees Three Lakh fifty thousand Only) from the appellant under Section 114 (i) of the Customs Act, 1962;



(iv) She refrained from imposing penalty under section 114 (ii) & 117 of the Customs Act, 1962.

**SUBMISSIONS OF THE APPELLANT:**

3. Being aggrieved with the impugned order, the Appellant has filed the present appeal wherein they have submitted grounds which are as under:-

3.1 The Adjudicating Authority has erred in failing to appreciate that Board vide Circular No. 30/2017-Cus., dated 18-7-2017, at para 2 (g) has clarified that the facility of re-testing is a trade facilitation measure, which should generally not be denied in the ordinary course. It is further clarified that there might arise circumstances where the customs officer is constrained to deny the re-testing facility. Such denial would be occasional and on reasonable grounds to be recorded in writing. In this regard, the appellant has submitted that merely because the request was made after expiry of 10 days per se does not warrant denial particularly when appellant is a regular exporter of Indian Parboiled Rice from Mundra and no sample was ever found incriminating. Therefore, on this ground, the appellant submitted that the impugned order is liable to be quashed and set aside.

3.2 The Adjudicating Authority has not cited any evidence to show that appellant stood to make any monetary gain by supposedly exporting rice comprising of 27.01% & 26.30% broken so as to justify imposition of redemption fine of Rs. 7,00,000/- and penalty of Rs. 3,50,000/- under Section 114 (i) of Customs Act, 1962. The impugned order imposing fine is passed without computing margin of profit. It is a settled law that quantum of fine is pegged with margin of profit and if there is no profit then no fine is imposable. The Adjudicating Authority has not cited any evidence of mens rea on the part of appellant and hence, imposition of penalty under Section 114 (i) of Customs Act, 1962 is not justified.

**PERSONAL HEARING:**

4. Personal hearing was granted to the Appellant on 15.10.2025, following the principles of natural justice wherein Shri Vikas Mehta, Consultant appeared for the hearing and re-iterated the submissions made at the time of



filng the appeal. He also filed additional submissions vide E-Mail dtd. 28.10.2025 as under :-

4.1 They had correctly described and classified the goods entered for export under Shipping Bill Nos. 7921658 dated 20.02.2023 and 8197531 dated 02.03.2023 as Indian Non-Sortex Parboiled Rice by classifying the same under CTH 10063010.

4.2 The case of department is solely based on following Test Reports:

4.2.1 Test Report No. 10732 dated 14.03.2023: *"The sample as received is in the form of pale yellowish and pale brownish (translucent) rice grain of assorted sizes along with some paddy." In the Notes/comments section, it is reported that "Based on the physical appearance, forms and analytical findings, it may be considered as other than Parboiled Rice. However, other tests including microbiological test could not be ascertained for want testing facility."*

4.2.2 Test Report No. 10391 dated 06.03.2023: *"The sample as received is in the form of mixture brownish, off white translucent rice grains of assorted sizes along with some poddy, paddy husk, few wheat grains & extraneous matter in the Notes/comments section, it is reported that "Based on the physical appearance, forms and analytical findings, it may not be considered as Parboiled Rice with respect to Damaged & discoloured grains. However, other tests including microbiological test could not be ascertained.."*

4.3 In this regard, kind attention is invited to Board's Instruction No. 29/2022-Customs dated 28.10.2022, cited in para 2 of the show cause notice.

4.3.1 The aforesaid Circular is reproduced below for the ease of ready reference:

*"The matter has been examined. The issue here is only the adoption, in normal course, of least burdensome procedure to merely rule out the export of dutiable rice variety declared as non-dutiable parboiled rice variety. The Department of Food and Public Distribution (DFPD) has informed that there is no direct method, other than by testing, found in the literature, to identify parboiled rice variety with certainty vis-a-vis other. It is relevant that the DGFT prescribed export policy condition is 'Free' for the above classification structure..."*



(Emphasis and Underline Supplied)

4.4 It is a matter of record that the reports have been issued on the basis of "physical appearance" "forms" and "analytical findings" and not on the basis of any literature.

4.5 As per the material available on internet (Wikipedia), parboiled rice is rice that has been partially boiled in the husk. Parboiling happens when rice is soaked, steamed and dried while it is still in its inedible outer husk. This turns the rice inside a slightly yellow hue.

4.6 In this case, the chemical examiner has duly reported that rice was pale yellowish and pale brownish (translucent) rice (in the Test Report No. 10732) and mixture of brownish and off white translucent (in the Test Report No. 10391).

4.7 Thus, the goods exported by the appellant satisfies the description of parboiled rice available in the public domain. Consequently, the impugned order is not tenable in the eyes of law. Hence, it is prayed to quash and set aside the same.

4.8 Without prejudice to above, the reports concedes that "other tests including microbiological test could not be ascertained for want (of) testing facility". Thus, the entire proceedings are even otherwise not tenable since based on incomplete test reports. For this reason also, the impugned order is not tenable in the eyes of law.

#### **DISCUSSION AND FINDINGS:**

5. I have carefully gone through the case records, impugned order passed by the Additional Commissioner, Customs, Mundra and the defense put forth by the Appellant in their appeal.

5.1 The Adjudicating Authority, in the impugned order, noted the Appellant's request for re-testing made during the personal hearing on 20.05.2024 but explicitly rejected it stating: "As the SCN has been already issued the request of the exporter for re-testing of the sample can not be accepted at this point of time." The Adjudicating Authority merely "brushed aside" the request for re-testing without addressing the matter substantively. At the time of filing this appeal, the Appellant has made a new, specific submission asserting



that the Adjudicating Authority erred in failing to appreciate that the facility of re-testing is a trade facilitation measure as clarified by CBIC Circular No. 30/2017-Cus., dated 18-7-2017, which holds that denial should be "occasional and on reasonable grounds to be recorded in writing." The Appellant also submitted that the denial was unwarranted as they are a regular exporter with no previous incriminating samples. Crucially, the records available for the adjudication proceedings do not indicate that the Appellant had brought the specific details of this vital Circular to the notice of the Adjudicating Authority. The new submission regarding the non-compliance with the binding Circular's principles was thus not a subject matter of the original Order-in-Original, leading to a new angle on the denial of natural justice.

5.2 The power to remand is a necessary corrective mechanism available to the Appellate Authority to prevent a miscarriage of justice where the principles of natural justice or due process have been violated, or where the Adjudicating Authority lacked the opportunity to consider crucial evidence. When the Appellant later introduces new and material facts, the Appellate Authority should typically remand the matter. This allows the Adjudicating Authority, who is the fact-finding authority, to examine these new grounds and record findings, thereby upholding the principle that every person is entitled to a fair hearing of their full case and avoiding the burden of deciding a complex factual issue at the first appellate stage. The spirit of Section 128A(3)(b)(i) of the Customs Act, 1962, which provides for remand where an order has been passed without following the principles of natural justice, supports this action. The Appellant's right to submit relevant legal documents (like the Circular) and argue their case, especially on a matter of trade facilitation like re-testing which goes to the root of the classification issue, is a fundamental right. Had the Adjudicating Authority considered the binding nature and conditions of the CBIC Circular while passing the initial order, the outcome regarding the denial of re-testing might have been different.

5.3 CBIC Circular 30/2017-Cus explicitly states that the facility of re-testing is a trade facilitation measure and should generally not be denied. The denial must be "occasional and on reasonable grounds to be recorded in writing". The Adjudicating Authority's reason for denial, that the request could "not be accepted at this point of time" because the Show Cause Notice was already issued, is a bare denial that appears contrary to the spirit and letter of the Circular, which emphasizes a reasoned view on re-test requests. Given that the




Appellant's submission concerning the CBIC Circular and the reasons for denying the re-test introduces a new and critical legal/factual dimension not adequately addressed in the impugned order, and considering the Appellate Authority's inherent power to pass a just and proper order, which, in this context, requires a correct application of departmental instructions, remanding the case back to the original authority is necessary to ensure the matter is decided afresh on all correct legal principles and facts.

5.4 The entire finding on classification, confiscation, and penalty hinges on the validity of the test report showing 27.01% / 26.30% broken rice. Since the Appellant has raised a valid and substantial argument regarding the denial of the statutorily backed right to a re-test (under a binding CBIC Circular) as a new ground of appeal that was not properly addressed by the Adjudicating Authority, the interests of justice demand that the case be remanded for a comprehensive fresh adjudication on this procedural point. The Appellant's failure to furnish the reasons for re-test to the Adjudicating Authority during the original proceedings meant that the Adjudicating Authority was restricted to the evidence on file. However, the issue of non-compliance with the CBIC Circular No. 30/2017-Cus regarding re-test, which is a key legal obligation of the department, goes to the root of the matter, as the entire list revolves around the validity of the first test report.

5.5 The CBIC Circular No. 30/2017-Cus states that re-testing is a trade facilitation measure that "should generally not be denied" and requires reasonable grounds for denial to be recorded in writing. The Adjudicating Authority must now decide if the failure to respond to the re-test request violates this binding instruction. Since the Adjudicating Authority adjudicated the matter and was deprived of the opportunity to consider the new facts regarding the legal implication of the binding Circular on the re-test issue, it is a fit case for remand to ensure a comprehensive and fair adjudication.

6. In exercise of the powers conferred under Section 128A of the Customs Act, 1962, I pass the following order:

(i) The Order-In-Original No. MCH/ADC/MK/103/2024-25 dated 01.08.2024 is set aside. The case is remanded back to the file of the Adjudicating Authority for fresh adjudication while considering all new facts and legal grounds.



7. The appeal filed by M/s Metco Export International is hereby allowed by way of remand.



सत्यापित/ATTESTED

*Prasad*  
अधीक्षक/SUPERINTENDENT  
राजमा चुन्क (अपील्स), अहमदाबाद.  
CUSTOMS (APPEALS), AHMEDABAD

F. No. S/49-164/CUS/MUN/2024-25

By Speed post/E-Mail

4634

*Amit Gupta*  
(AMIT GUPTA)  
Commissioner (Appeals),  
Customs, Ahmedabad

Date: 28.11.2025

To,  
M/s Metco Export International,  
A/401, Koteswar Palace, Road No. 4,  
Kol-Dongri, Andheri East, Mumbai - 400069

Copy to:

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