



सीमाशुल्क (अपील) आयुक्तका कार्यालय, अहमदाबाद  
 OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD  
 चौथी मंज़िल 4th Floor, हडको बिल्डिंग HUDCO Building, ईश्वर भुवन रोड़ Ishwar Bhuvan Road,  
 नवरंगपुरा Navrangpura, अहमदाबाद Ahmedabad – 380 009.  
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 DIN-20260171MN0000000A29

क	फ़ाइल संख्या FILE NO.	F.No. S/49-323/CUS/AHD/2024-25
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-520-25-26
ग	पारितकर्ता PASSED BY	SHRI AMIT GUPTA Commissioner of Customs (Appeals), AHMEDABAD
घ	दिनांक DATE	21.01.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER - IN - ORIGINAL NO.	O.I.O. No. 03/AC/ICD/IMP/REF/2025 dated 09.01.2025 passed by the Assistant Commissioner of Customs, ICD-Khodiya.
	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	21.01.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s. Indochem & Polymers, X-58, Okhla Industrial Area, Phase-II, New Delhi – 110020.

1. यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है.

This copy is granted free of cost for the private use of the person to whom it is issued.

2. सीमाशुल्क अधिनियम 1962 की धारा 129 डी डी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते हैं.



	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :
(क)	बैगेज के रूप में आयातित कोई माल.
(a)	any goods imported on baggage.
(ख)	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो.
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.
(ग)	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी.
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
3.	पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :
	The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :
(क)	कोर्ट फी एक्ट, 1870 के मद सं.6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए.
(a)	4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870.
(ख)	सम्बद्ध दस्तावेजों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो
(b)	4 copies of the Order - In - Original, in addition to relevant documents, if any
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथासंशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्षके अधीन आता है में रु. 200/- (रूपए दो सौ मात्र) या रु. 1000/- (रूपए एक हजार मात्र), जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां. यदि शुल्क मांगा गया ब्याज, लगाया गया दंड की राशि और रूपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु. 200/- और यदि एक लाख से अधिक हो तो फीस के रूप में रु. 1000/-
(d)	The duplicate copy of the T.R.6 challan evidencing payment of Rs. 200/- (Rupees two Hundred only) or Rs. 1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs. 200/- and if it is more than one lakh rupees, the fee is Rs. 1000/-.
4.	मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील 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 :	
	सीमाशुल्क, केंद्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधीकरण, पश्चिमी क्षेत्रीय पीठ	Customs, Excise & Service Tax Appellate Tribunal, West Zonal Bench
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016	2 <sup>nd</sup> 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 रूपए.	
(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 रूपए	
(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 रूपए.	
(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. Indochem & Polymers, X-58, Okhla Industrial Area, Phase-II, New Delhi - 110020 (hereinafter referred to as 'the appellant') has filed the present appeal against Order-In-Original No. 03/AC/ICD/IMP/REF/2025 dated 09.01.2025 (hereinafter referred to as 'the impugned order') passed by the Assistant Commissioner of Customs, ICD-Khodiyar (hereinafter referred to as 'the adjudicating authority').

2. Facts of the case, in brief, are that the appellant had imported PVC Resins by filing four Bills of Entry on 31.01.2017. After sale of the imported goods, the appellant has filed a claim for refund of 4% Additional Duty of Customs, leviable under the erstwhile provisions of Section 3(5) of the Customs Tariff Act, 1975. The said 4% Additional Duty was popularly known as 4% Special CVD or 4% Special Additional Duty ('4% SAD') and it was leviable on imported goods to counter-balance the Sales Tax or VAT, which was leviable prior to introduction of GST, i.e. prior to 01.07.2017. Further, refund of the said 4% Additional Duty was available under the provisions of Notification No. 102/2007-Cus dated 14.09.2007, as amended by Notification No. 93/2008-Cus dated 01.08.2008, subject to conditions prescribed therein. Some of the important conditions were that the imported goods should have been sold on payment of appropriate Sales Tax / VAT; and in the sales invoices, it should have been mentioned that no credit of the said 4% Additional Duty would be admissible.

3. The appellant had filed a refund claim for refund of 4% Additional Duty amounting to Rs.3,76,931.35 on 03.08.2017 with the office of the adjudicating authority. The said refund claim was initially partly allowed to the extent Rs.71,311/- and rejected to the extent Rs.3,05,620/-, vide Order-In-Original No. 147/AC/ICD/IMP/REF/2018 dated 15.03.2018. Being aggrieved against part rejection of refund claim, the appellant had filed an appeal with this office. Vide Order-In-Appeal No. AHD-CUSTOM-000-APP-180-18-19 dated 20.12.2018, the matter was remanded to the adjudicating authority without expressing any views on merits.

4. In remand proceedings, vide the impugned order, the adjudicating authority has observed, inter alia, that the claimant had entered into an agreement for consignment sales with M/s. Idea Works Incorporated, Jaipur; that according to the said agreement, any liability of Sales Tax/VAT is to be paid by the consignment agent; that the claimant



clarified that the consignment agent had sold the goods, collected Sales Tax/VAT from buyers and deposited to their jurisdictional Sales Tax / VAT office. The adjudicating authority referred Para (viii) of the Circular No. 16/2008-Cus dated 13.10.2008 issued by Board under which it has been clarified that in case of sales through consignment agent, the refund of SAD is allowable subject to the condition that the sales invoices issued by the consignment agent indicate that the sales is made by him on behalf of the importer; and the importer, in turn, pay or reimburse the VAT/CST to his consignment agent/stockist. The adjudicating authority observed that in the instant case, the claimant had stated that they had not paid or reimbursed the amount of VAT/CST to the consignment agent, which had been paid by consignment agent on sales of the goods.

5. As regards one-to-one correlation of imported goods with the goods sold on payment of VAT/CST, the adjudicating authority observed that the Chartered Accountant has certified the Master Sheet which shows BOE number under which the goods imported and sales invoice numbers under which the said goods were sold; that however, any further appropriate documents were not produced for correlating the payment of ST/VAT on the imported goods with the invoices of sale; and also to the effect that the burden of 4% CVD had not been passed on by the importer to buyer as well as any unsold stock lying with the consignment agent. The adjudicating authority further observed that Certificate issued by M/s. Suresh C Gupta, Chartered Accountant, has been issued on the different address of the claimant rather than the address mentioned in the Bills of Entry.

6. In view of the above, the adjudicating authority held that the refund claim related to the quantity of imported goods, which were sold by the claimant through consignment agent, has not been paid or reimbursed (ST/VAT amount) by the claimant and hence, condition of Circular No. 16/2008-Customs has not been fulfilled and so, the refund is inadmissible. Accordingly, vide impugned order dated 09.01.2025, the refund claim has been rejected.

Admission of Appeal:

7. As the appeal has been filed against rejection of refund, pre-deposit for filing of appeal as prescribed under Section 129E of the Customs Act, 1962, does not require. In the Appeal Memorandum, the Date of communication of the impugned order dated



09.01.2025 has been shown as "21.01.2025". The claimant has also submitted a printout of Speed Post Tracking, which shows date of "Out for Delivery" as "20.01.2025". Whereas, the present appeal has been filed on 17.03.2025. As the appeal has been filed within normal period of 60 days from the date of receipt of impugned order, as stipulated under Section 128(1) of the Customs Act, 1962, it has been admitted and being taken up for disposal on merits.

8. One set of the appeal memorandum has been sent to the Assistant Commissioner of Customs, ICD-Khodiyar, vide this office letter F.No. S/49-323/CUS/AHD/2024-25/161 dated 03.04.2025 for comments on this appeal. However, no reply thereof has been received. So, I proceed to the decide the appeal on the basis of documents submitted by the appellant.

Gist of written submissions:

9. The appellant submitted that the learned Respondent has failed in appreciating that the special additional duty of Customs (SAD) payable under Section 3(5) of the Customs Tariff Act, 1975, at the rate of 4% during the relevant period was chargeable on imported goods and Notification No. 102/2007-Cus dated 14.09.2007 granted exemption of 4% SAD. The said exemption was given effect by way of refund to the importer who pays sales tax / VAT / CST on such imported goods. The procedure in this regard was laid down under Circular No. 16/2008-Cus dated 13.10.2008. Para (viii) of the Circular covers the situation where the consignments of imported goods are sold through consignment agent on behalf of the importer, which is as under:

"(viii) ... ..

*In view of the above, it is clarified that in case of sale of imported goods by importer through consignment agent/stockiest, refund of 4% CVD shall be granted by Customs field formations, subject to the condition that the Consignment agent/stockiest has been authorised to sell the imported goods in terms of the agreement entered into between the importer and consignment agent/stockiest and that each of the sale invoices issued by the consignment agent/stockiest indicate that the sale is made by him on behalf of the importer in the capacity of consignment agent/stockiest. These conditions shall be verified by the Customs officers before sanction of 4% CVD refund claims in these cases. Further, in such cases, it is also required that the applicant submits a certificate from a Chartered*



*Accountant appointed by the importer, who either certifies the importer's financial records under the Companies Act, 1956 or any ST/VAT Act of the State Government or the Income Tax Act, 1961, to the effect that appropriate ST/VAT has been paid by consignment agent/stockiest on behalf of importer and that the importer, in turn, has paid or reimbursed the ST/VAT to his consignment agent/stockiest along with the correlation of ST/VAT payment with 4% CVD paid on imported goods."*

10. The appellant further submitted that from the facts of the case narrated above and the documents on record, there is no dispute in the present case that:

- (i) The Appellant cleared the imported consignments on payment of Additional duty of Customs leviable under Section 3(5) of the Customs Tariff Act, 1975.
- (ii) The goods so imported were sold by the Appellant on payment of VAT / CST through Consignment Agent M/s Idea Works Incorporated, Jaipur. In other words, imported goods were sold by the Consignment Agent on payment of VAT /CST on behalf of the Appellant.
- (iii) The goods were sold by the Consignment Agent under the cover of proper Central Excise invoices on behalf of the Appellant and such invoices contained specific conspicuous remark, "*The Credit of Additional Duty of Customs Levied on the said goods under Sub-Section (5) of Section-3 of the Customs Tariff Act, 1975 (51 of 1975) shall not be Admissible.*" in compliance to the procedure laid down under Notification No. 102/2007-CUS dated 14.09.2007.
- (iv) The payment against the invoices issued by the Consignment Agent received from the buyer was inclusive of VAT/CST and the Consignment Agent deposited such VAT/CST collected by it to the VAT department of the State Government. Remaining amount was transferred by the Consignment Agent to the Appellant after deducting amount of commission and other reimbursable expenses.



- (v) The claim for refund of 4% SAD was filed within the period of limitation prescribed under Notification No. 102/2007-Cus dated 14.09.2007 with all requisite documents.
- (vi) Limitations and conditions prescribed under the aforesaid notification and the procedure laid down under Board's Circular No. 16/2008-Cus dated 13.10.2008 have been fulfilled / followed.

11. Further, perusal of the impugned order would reveal that although the learned Respondent has admitted the facts of the case narrated in the preceding paragraphs, he has proceeded to reject the refund claim only on the ground that the amount of VAT/CST was not reimbursed by the Appellant to the consignment agent. He has failed in appreciating that the goods in question were sold by the Consignment Agent on behalf of the Appellant; that the Consignment Agent received the sale proceeds from the buyers against the sale invoices which included the amount of VAT/CST on such goods; that the payments so received by the Consignment Agent was transferred to the Appellant excluding the amount of VAT/CST which was paid by the Consignment Agent to the Government exchequer; that the commission was also deducted by the Consignment Agent.

12. The appellant further submitted that if the interpretation of the requirement of reimbursement of the VAT/CST by the Principal to the Consignment Agent given by the learned Respondent is accepted, in that case the Appellant should have received entire amount of sale proceeds including VAT /CST and even commission and then out of such amount the Appellant should have reimbursed the VAT/CST and other reimbursable expenses incurred by the Consignment Agent. In fact, such a procedure would result in multiple transactions and the result will remain the same. Thus, rejection of the refund claim by adopting such a narrow interpretation and restricted meaning to the requirement of notification granting exemption to 4% SAD is not sustainable.

13. In view of the above, the appellant has requested to set aside the impugned order and to direct the learned respondent to grant refund of 4% S.A.D.

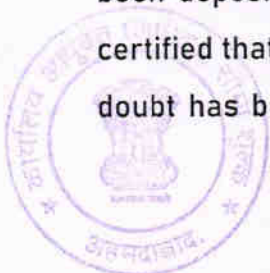


Personal Hearing:

14. Personal Hearing through video conference on 09.12.2025 was offered to the appellant. Vide email dated 09.12.2025, the appellant has stated that their authorised representative Mr. V. N. Goenka was trying to join the meeting, but unfortunately he could not join due to technical problem in laptop; that they informed that the 'Grounds of Appeal' submitted by them are their final submission. In addition, the appellant mentioned that Courts and Tribunals have ruled that if the importer demonstrates (often through a C.A. Certificate) that VAT/Sales Tax was paid by the consignment agent / stockiest and the financial burden of additional duty was ultimately born by the importer, the SAD refund should be granted.

Discussion and findings:

15. I have carefully gone through the facts of the case and written as well as oral submissions made by or on behalf of the appellant M/s. Indochem & Polymers. The issue, which is to be decided in the present appeal, is whether refund of 4% Additional Duty of Customs ('4% SAD') under the provisions of Notification No. 102/2007-Cus dated 14.09.2007 is admissible when the goods have been sold through consignment agent, who paid Sales Tax/VAT, but the importer/claimant has not reimbursed payment of ST/VAT to the consignment agent. In the era of VAT or Sales Tax (i.e. prior to the date 01.07.2017), no VAT or ST was leviable on stock transfer of goods inasmuch as no sales occurred on transfer of goods by Principal (in this case appellant) to its consignment agent. However, when the consignment agent was selling the goods on behalf of Principal, he was required to pay VAT or Sales Tax in Pre-GST regime. In the case on hand, there is no allegation to the effect that the consignment agent of the appellant viz. M/s. Idea Works Incorporated, Jaipur, had not paid VAT/ST on sale of the goods for which refund has been claimed. In fact, the appellant has submitted copies of Invoices issued by the said consignment agent in which output VAT/CST has been charged. The appellant has also submitted copies of Challans showing payment of Central Sales Tax or VAT to Govt. of Rajasthan by the said consignment agent. The appellant has also submitted Certificates of Chartered Accountant / Statutory Auditor in form Annexure-G and Annexure-F along with details of correlation between Bills of Entry and Sales Invoices and accordingly, VAT of Rs. 8,27,979/- and CST of Rs. 35,826/- total Rs. 8,63,805/- has been deposited/adjusted with concerned authorities. Thus, the Statutory Auditor has certified that the imported goods had been sold on appropriate payment of VAT/CST. No doubt has been expressed regarding authenticity or correctness of these Certificates



issued by M/s. Bhargava Associates, Chartered Accountants, Delhi (Firm Regn. No. 000582N).

16. I further find that payment of Central Sales Tax ('CST') or VAT on the impugned goods is not under dispute; but the refund claim has been rejected on the ground that the appellant has not reimbursed the Sales Tax/VAT to his consignment agent. In this regard, the adjudicating authority has relied upon Para (viii) of the Circular No. 16/2008-Cus dated 13.10.2008. In this regard, I find that the question of reimbursement of ST/VAT by the appellant to its consignment agent would arise when the consignment agent has transferred the incidence of ST/VAT collected from buyers to the appellant. In other words, if consignment agent transfers the entire sales amount including ST/VAT received from buyers to the appellant, the appellant is required to reimburse the amount equal to ST/VAT to consignment agent and the consignment agent is required to pay the same in Govt. account. Whereas, in the case on hand, as rightly mentioned by the appellant, that the consignment agent has directly deposited the ST/VAT to Government out of the sales amount and transferred the remaining amount (net of ST/VAT and commission) to the appellant. Therefore, there could not be any reimbursement of ST/VAT by the appellant to the consignment agent, as the appellant has received the net amount after deduction of ST/VAT and commission of consignment agent. Even otherwise, there is no such condition in the Notification No. 102/2007-Customs dated 14.09.2007, which stipulates that importer should reimburse ST/VAT to consignment agent. In the present case, the consignment agent has collected ST or VAT from the buyers and directly deposited the same to Govt. of Rajasthan and therefore, the question of reimbursement of ST/VAT does not arise.

17. Further, I find that the adjudicating authority has made a general objection to the effect that the one-to-one correlation of imported goods with the sales invoices has not been established, even though the appellant has submitted various documents like Certificates of Chartered Account with correlation sheet, stock transfer invoices, sales invoices, etc. The adjudicating authority has not mentioned specifically as to correlation of which item(s) has not been established. Under this situation, I am of the view that submission of Certificates of Chartered Account / Statutory Auditor showing correlation with copies of Invoices and ST/VAT Challans should be treated as sufficient compliance of condition given in Para 2(e)(iii) of Notification No. 102/2007-Cus dated 14.09.2007 read



with Para 5.1 of Circular No. 06/2008-Cus dated 28.04.2008 and Para 2(vi) of Circular No. 16/2008-Cus dated 13.10.2008.

18. As regards unjust enrichment, I find that the appellant has submitted a copy of the Certificate dated 24.10.2017 issued by C.A. H. P. Singh, Membership No. 84209 of M/s. Bhargava Associates, Delhi, in which it has been certified inter alia that the amount of refund claimed as Rs.3,76,931.35 is not passed on to the Customers. It has been further certified that the imported goods have been sold on payment of VAT and CST.

19. Further, I find that the adjudicating authority has denied the refund by observing that the Certificate issued by the Chartered Accountant has been issued on the different address of the claimant rather than the address mentioned in the Bills of Entry. In this regard, I find that this objection is not sustainable inasmuch as the appellant can possess various premises including warehouses, office etc. and there is no requirement that the Certificate of C.A. should mention the address of the premises as mentioned in the Bills of Entry.

20. In view of the above facts, discussion and findings, I allow the appeal by passing following order:

Order

I set aside the impugned Order-In-Original No. 03/AC/ICD/IMP/REF/2025 dated 09.01.2025 passed by Assistant Commissioner of Customs, ICD-Khodiya, and direct the adjudicating authority to sanction the refund of 4% Additional Duty of Customs amounting to Rs.3,05,620/- to M/s. Indochem & Polymers under the provisions of Notification No. 102/2007-Cus dated 14.09.2007 within 90 days from the date of receipt of this order.



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

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

To

M/s. Indochem & Polymers,  
X-58, Okhla Industrial Area, Phase-II,  
New Delhi - 110020.  
(email: [info@indochempolymers.com](mailto:info@indochempolymers.com))



Copy to:

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.  
(email: [ccoahm-guj@nic.in](mailto:ccoahm-guj@nic.in))
2. The Principal Commissioner of Customs, Custom House, Ahmedabad.  
(email: [cus-ahmd-guj@nic.in](mailto:cus-ahmd-guj@nic.in) [rra-customsahd@gov.in](mailto:rra-customsahd@gov.in))
3. The Deputy/Assistant Commissioner of Customs, ICD-Khodiyar.  
(email: [icdkhd-ahd@gov.in](mailto:icdkhd-ahd@gov.in))
4. Shri. Vishwanath Goenka, Advocate (email: [vishwanath\\_goenka@yahoo.com](mailto:vishwanath_goenka@yahoo.com))
5. Guard File.

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